

Technical Advisory Committee for Amendment to 9VAC25-890 (MS4 Phase II General Permit)
Meeting #7

Attendees – 03/03/17

Name	Affiliation	Contact Info
Jill Sunderland	HRPDC	jsunderland@hrpdcva.gov
Erin Rountree	City of Suffolk	erountree@suffolkva.us
Erin Hawkins	City of Lynchburg	erin.hawkins@lynchburgva.gov
Lisa Ochsenhirt	Aqualaw for VAMSA	lisa@aqualaw.com
Jess Wenger	UVA	jsw6d@virginia.edu
Dan Frisbee	City of Charlottesville	frisbee@charlottesville.org
Peggy Sanner	Chesapeake Bay Foundation	psanner@cbf.org
Normand Goulet	NVRC	ngoulet@novaregion.org
Alex Forasté	Stantec	Alex.foraste@stantec.com
Ashley Hall	Stantec	ashley.hall@stantec.com
Joni Calmbacher	City of Alexandria	Joni.calmbacher@alexandriava.gov
John Burke	Town of Christiansburg	jburke@christiansburg.org
Camilla Goncalves Dias	US Army – Ft Belvoir	
Fran Geissler	James City County	fran.geissler@jamescitycounty.va.gov
Joe Battiatà	ASCE	jbattiatà@Hopewellva.gov
Melanie Davenport	DEQ – CO	melanie.davenport@deq.virginia.gov
Jaime Bauer	DEQ – CO	jaime.bauer@deq.virginia.gov
Allan Brockenbrough	DEQ – CO	allan.brockenbrough@deq.virginia.gov
Kathleen O’Connell	DEQ – CO	kathleen.oconnell@deq.virginia.gov
Fred Cunningham	DEQ – CO	frederick.cunningham@deq.virginia.gov
Kelsey Brooks	DEQ – CO	kelsey.brooks@deq.virginia.gov
Jeff Selengut	DEQ – CO	jeff.selengut@deq.virginia.gov
Mason Harper	DEQ – CO	mason.harper@deq.virginia.gov
Liz McKercher	DEQ - CO	elizabeth.mckercher@deq.virginia.gov
Kelly Miller	DEQ – SWRO	kelly.miller@deq.virginia.gov
Ed Stuart	DEQ – NRO	edward.stuart@deq.virginia.gov
Tracey Harmon	VDOT	Tracey.Harmon@VDOT.Virginia.gov
Brian Powell	US Navy/DOD	brian.m.powell@navy.mil
Sarah Diebel	US Navy/DOD	sarah.diebel@navy.mil
Grace LeRose	City of Richmond	grace.lerose@richmondgov.com
Ben Custalow	Greeley + Hansen	bcustalow@greeley-hansen.com
Doug Fritz	GKY & Associates	dfritz@gky.com
Hannah Somers	GKY & Associates	hsomers@gky.com

LOCAL TMDL CONDITION

A.1

- Jaime (DEQ) explained that like the 2013 general permit, the new general permit will establish the TMDL approval date frame for which action plans will need to be created. We cannot require permittees to develop action plans for TMDLs that are approved after the effective date of the permit, because that is a self-modifying permit conditions. Permittees will be required to develop TMDL action plans only for those TMDLs approved through June 30, 2018
- Jill (HRPDC) asked about the “develop and implement” Action Plan language. If the Action Plan is developed through the 24 months does it make sense to have the implementation occur during

the same time frame? Asked if there should be a separate time frame for implementation and whether that time frame will include a DEQ approval process.

- Jaime (DEQ) stated that the Action Plan will act similar to the Program Plan and that there may not be an approval process from DEQ because it will not be an enforceable document
- Dan (Charlottesville) asked that the language be altered to clarify that the entire plan will not need to be implemented within the 24 months. The plan will lay out steps that may extend beyond the 24 month development period
 - § Joe (ASCE) suggested removing the word “implement”
 - § Dan (Charlottesville) suggested adding “initiate implementation” instead of just “implement”
 - Jaime (DEQ) clarified this requirement only refers to the set of Action Plans developed for this permit cycle
- Liz (DEQ) stated that she had received a comment about whether the EPA approval would create a category of TMDLs that were not covered by this permit
 - § Jaime (DEQ) asked Peggy (CBF) to reiterate the reason the 2013 permit only said “approved” and not “EPA approved” or “SWCB approved”
 - Peggy (CBF) clarified that at the time of last permit reissuance there was a difference between how the CBTMDL and LTMDL were approved. “Approved” was used to make sure all TMDLs were captured in the language
 - Jaime (DEQ) stated we changed the language because during Action Plan development we received questions about whether that language meant EPA approved or State Water Control Board approved
 - Melanie (DEQ) said since 2013 we have changed the approval sequencing
 - Jaime (DEQ) asked TAC if they disagreed with changing the language to “EPA approved”
 - Liz (DEQ) stated that changing the language adds clarity because it gives the permittee assurance that they are not in limbo if the TMDL has not been approved by both EPA and DEQ
 - Tracy (VDOT) asked how the public is notified when EPA approves the TMDL. Asked how quickly the TMDL staff updates their website.
 - Liz (DEQ) stated there is not a significant delay between when the TMDL is approved by EPA and when DEQ’s website is updated. At most there would be a 2-day delay
 - Jaime (DEQ) stated we are not asking folks to address TMDLs that are approved during the permit cycle
 - § Agreement to leave the language as “approved by EPA”

- Jess (UVa) asked what is being asked for in 2.d. and how that would apply to permittees that are not VDOT
 - Jaime (DEQ) stated that for VDOT, they had support facilities that were located and discharged into an impaired water
 - Jess (UVa) asked how we would reword this section to ensure it applies to all permittees
 - § Jaime (DEQ) stated that this would apply to the permittee's system within the TMDL watershed and any municipal facilities that also fall within the TMDL watershed. Suggested changing the language to MS4 or Municipal facilities.
 - § Jess (UVa) asked that we be careful about the use "municipal" so that the requirement applies to all permittees
 - Norm (NVRC) suggested removing "including roadway systems." It is language that does not apply to most permittees
 - Sarah (Navy) suggested changing the language to "an inventory of activities or sources of pollutants related to the TMDL"
 - § Jaime (DEQ) stated that e. addresses the facilities that Sarah (Navy) suggested are captured in d.
 - Sarah (Navy) suggested combining d. and e.
 - Norm (NVRC) agreed that d. and e. should be combined because permittees have already identified their municipal facilities in MCM 6
 - Erin (Suffolk) also agreed. Stated that otherwise we will just get a list in the Action Plan of what the permittees owns, which may not be useful
 - § John (Christiansburg) suggested tying the requirement back to the municipal facilities that are listed under MCM 6
 - § Joe (ASCE) stated we should be more concerned with operational activities occurring in the TMDL watersheds; not the facilities located in the watershed
 - Jaime (DEQ) stated we will strike 2.d and make 2.e an identification of the sources owned and operated by the MS4 in the TMDL watershed
 - Dan (Charlottesville) stated the existing permit provides additional information that defines a "significant source." Suggested reincorporating that language in 2.e.
 - § Liz (DEQ) stated there is also language in the local action plan guidance about what a significant source is and we may want to look at that for language that can be incorporated into the permit
- Dan (Charlottesville) asked if it is sufficiently clear that the phrase "assigned to permittee" in 2.c refers to both individual WLA and aggregate WLA
 - Jaime (DEQ) stated we could clarify this language
 - Norm (NVRC) stated we should be careful about crafting the language so that it is clear that the permittee is not responsible for all the reductions in an aggregate WLA
 - Allan (DEQ) clarified that what we want from permittees under this requirement is: (1) what the TMDL is and (2) the percent reduction the permittee is responsible for
 - § Doug (GKY) agreed that is the information we wanted from permittees under the last permit cycle

- Ben (Greeley & Hansen) stated that there are a number of TMDLs that do not have a percent reduction in the TMDL
- John (Christiansburg) asked about how these requirements will apply to new permittees that are not identified in current TMDLs
 - § Jaime (DEQ) stated we address this in guidance. Our plan is that those permittees will eventually be looped into existing TMDLs.
 - § Liz (DEQ) stated the Department is not prioritizing TMDLs for revision just to incorporate new MS4 permittees. However, as we revise existing TMDLs, new permittees will be looped into those TMDLs (as applicable) as part of the revision process
- Doug (GKY) asked about TMDLs developed in 2000 that address permittees that may have had expanded urbanized area in 2010. Will the percent reduction required apply to the permittee's 2000 acres or 2010 acres
 - § Liz (DEQ) stated that, as we have stated in guidance, until the TMDL is updated the permittee is responsible for whatever was in place when the TMDL was approved.
 - § Melanie (DEQ) asked how frequently there will be a significant change in a permittees land area as a result of the census
 - Erin (Suffolk) stated that Suffolk's urbanized area tripled as a result of the last census
 - § Liz (DEQ) stated that the area in TMDLs that represent MS4s has always been a surrogate. It has never been an accurate representation of the permittee's service area, so this may be a non-issue if the initial estimate in the TMDL significantly overestimated the permittee's service area
- Norm (NVRC) stated he still has questions about aggregate loads. Under an aggregate load the permittee has not really been assigned a load. It should be the state's responsibility to assign that individual load to the permittee
 - § Jaime (DEQ) stated this can be difficult since many MS4s are closely interconnected. The Department has also heard from some permittees that do not want individual WLAs
 - § Liz (DEQ) stated that the idea of a WLA for an MS4 is difficult because it is not a point source in the same way an industrial site is a point source – there is not a small set of outfalls where we require permittees to take measurements to ensure they are meeting their TMDL requirements. We do not have the same level of data for MS4s. The more we disaggregate WLAs, the more we're perpetuating the false sense that what we're trying to implement under the MS4 program is the WLA, instead of meeting the reductions.
 - § Norm (NVRC) stated he is more concerned that there are TMDLs where the WLA is not divided by sector
- Allan (DEQ) clarified that we are asking whether or not we expect permittees to determine an individual WLA from an aggregate WLA and whether that would be appropriate/useful for all pollutants

- § Dan (Charlottesville) stated that he has had concerns about the fact that an aggregate is not assigned to a permittee
 - Allan (DEQ) suggested that we change the language to a “WLA and LA associated with the permittee’s MS4 service area”
 - Fran (James City County) stated that there may not be enough data to support a permittee’s disaggregation of an aggregate WLA. We need to make the language as un-burdensome as possible
 - Sarah (Navy) said the issue is the word “assigned.” The WLA and LA assigned to the waterbody. The WLA and LA is assigned to the waterbody the permittee discharges to
 - Fran (James City County) disagreed. She stated the WLA is assigned to the permit number.
 - Doug (GKY) stated we should not use the LA as a proxy for the WLA assigned to an expanded urbanized area. Allocation is associated with land use. As the census expands there was likely a land use change.
 - Liz (DEQ) stated there is an assumption that reductions in any expanded urbanized area would be consistent with the land use(s) in the WLA portion of the TMDL, but agreed that the LA would not reflect the WLA
- Melanie (DEQ) stated that we are talking about existing TMDLs and changes in urbanized areas. Asked what we think we should do with a static TMDL vs what we think we should do with the expanded urbanized area. Is it DEQ’s intent to update TMDLs to reflect expanded areas?
 - § Liz (DEQ) stated revising TMDLs to account for expanded urbanized areas is not a priority, especially for bacteria impaired watersheds
 - § Jaime (DEQ) stated that if we have not updated the TMDL, it is not clear that we have the authority to require permittees to account for those lands
- Liz (DEQ) stated that for PCBs newly expanded areas are less likely to be a source of PCBs because they would be newly developed. Similarly for sediment, the new area is under tighter control for sediment under E&S laws. For many POCs the new sources are anticipated to have less of an impact
 - § Doug (GKY) stated the WLA should be based on conditions at the time the applicable TMDL was developed
 - § Erin (Suffolk) stated that their expanded urbanized area now includes the oldest part of their downtown, so it is not always new development that gets incorporated into the expanded urbanized area
- Fran (James City County) asked what the method will be for handling exceptions
 - § Melanie (DEQ) suggested we addresses exceptions or unusual circumstances in guidance
- Jaime (DEQ) stated we have the following issues: (1) new permittees that do not have a WLA, (2) how to address expanded urbanized areas, and (3) the disconnect between the

MS4 area assumed in the TMDL and the permittee's actual service area. If we do not address this in the permit, than regulatorily we do not have any expectations for these changes. Permittees will be subject to the WLA unless the TMDL is updated.

§ Fran (James City County) asked for clarification that the goal is for permittees to reduce POCs. If that is the case, we should focus the requirements on reducing pollutants of concern, not how to handle unusual or uncommon situations. Permittee service areas will generally be smaller than the TMDLs assume. Asked what the difference is between a 91% and 99% reduction if we can't measure the pollutant anyway? Advised we keep requirements and approach simple.

- John (Christiansburg) suggested we change the language to just focus on requiring the permittee to report the actions they are taking, not determining the reductions they need to meet
- Joe (ASCE) stated that the CBTMDL reductions are proportionate to the MS4 permittees determined service area. Suggested permittees should use their service area to determine their load
 - § Norm (NVRC) stated we need to be careful we are not moving toward developing calculation tables for Local TMDLs
- Fran (James City County) stated she likes the removal of the language that requires permittees to list/perform activities in addition to what they were already doing since they were already doing MEP
- Jaime (DEQ) asked the TAC what makes determining an individual WLA out of an aggregate WLA difficult
 - § Norm (NVRC) stated every TMDL is developed differently and there are a variety of challenges to disaggregating an aggregate TMDL. Suggested we address the issue in 2.c with "a description of the WLA assigned in the TMDL"
- Jaime (DEQ) asked if the information required in 2.c should be moved out of the general requirements section to each pollutant section and made more specific
 - § Camilla (Ft Belvoir) stated that this change makes sense, because the question we want to answer is how we are assessing the effectiveness of a permittee's activities
 - § Norm (NVRC) stated we can leave it in the general section, but suggested changing it to "a description of the WLA assigned in the TMDL"
 - § Joe (ASCE) asked if the language should be more or less specific – which is more likely to create issues
 - Jaime (DEQ) stated we want to provide the most flexibility due to permittee and TMDL variability
- Camilla (Ft Belvoir) asked if there should be a schedule of implementation requirement or if asking for milestones is sufficient to serve as an implementation schedule
- Erin (Lynchburg) asked if we should move A.6 ("TMDL Action Plans may be implemented in multiple phases"?) up to this section

- Jaime stated we should not incorporate (6) in (2) but we can move (6) to (2) and change (2) to (3)
- Erin (Lynchburg) does not have an issue with (6) staying (6) as long as it is made clear in 2.g that the full reductions required under the TMDL do not have to be met during this permit cycle and the milestones are for what is in the current plan
 - § Jaime (DEQ) clarified that this is the intent of this language
 - § Erin (Lynchburg) suggested referencing (6) in 2.g
- Peggy (CBF) stated that there should be a requirement to establish an achievement date for the reductions required under the TMDL
 - § Fran (James City County) stated that James City County did not include an end date in the TMDL Action Plan for bacteria because their actions will not result in delisting of the impairment. The MS4's impact is too limited.
 - § Peggy (CBF) stated that she did not mean an achievement date for the entire TMDL, but an end date for the permittee's WLA
 - § Joe (ASCE) stated that addressing many of the TMDLs is programmatic, so the action will have to be continual
 - Fred (DEQ) stated we have similar issues with PCBs. We do not have end dates for PCBs in individual permits.
 - § Peggy (CBF) suggested putting in language that including an "end date where possible" or an end date for particular activities. For permittees "end date" would mean compliance with their assigned WLA
 - § Allan (DEQ) stated that some WLAs may not practicably be achievable
 - § Peggy (CBF) stated that she will develop language that will address this issue and submit it for consideration
 - § Ashley (Stantec) stated that putting a firm end date may put a cap on MEP

3. Local Bacteria TMDLs

- Ashley (Stantec) asked to make sure it is clear that there does not need to be an individual Action Plan for each allocation
- Fran (James City County) asked to clarify that there can be a single Action Plan that covers multiple pollutants and/or multiple pollutants
- Lisa (VAMSA) asked to clarify what "facilities" means in 3.b
 - Erin (Lynchburg) stated that this should be change to "permittee owned and operated facilities"
 - Tracey (VDOT) stated that VDOT did not like this condition
 - Fran (James City County) asked if we would consider a "keep American beautiful program" as a practice that addresses a bacterial TMDL
 - § Jaime (DEQ) stated that it would
 - Dan (Charlottesville) asked if 3.a.ii is asking only for BMPs that are implemented specifically to address bacterial impairments or if this would include BMPs that incidentally address bacterial impairments

- § TAC suggested removing “that address reductions” from the language
 - § Peggy (CBF) suggested changing the language to “reduce”
 - § Joe (ASCE) clarified we want the Action Plan to connect the dots of how the practices are achieving this goal, regardless of whether the BMPs were implemented specifically to meet the TMDL or if the benefit to the TMDL is incidental
 - § Jaime (DEQ) asked if we should include language that requires permittees to include a description of how practices are intended to address the TMDL
 - Fran (James City County) stated that pet waste stations are designed to keep the county parks clean, but there is an incidental benefit to the bay
 - Jaime (DEQ) stated that would be an appropriate practice to include
 - § Norm (NVRC) suggested combining 3.a.ii and 3.a.iii
 - Jaime (DEQ) suggested we might combine 3.a.ii and 3.a.iv
- Dan (Charlottesville) asked for clarification about what is meant by “under the permittee’s legal authority” in 3.a.iv
 - § Jaime (DEQ) stated the concern for VDOT was their limited legal authority. It is meant to refer to sources under the permittee’s legal authority
- Jaime (DEQ) asked permittees if we should consider creating a list of BMPs permittees may use to address bacterial TMDLs
 - Erin (Lynchburg) asked if there is a way we could create categories instead of a list that would preclude innovation
 - § Jaime (DEQ) stated this might be difficult for bacteria because the methods for addressing bacterial impairments are programmatic
 - § Dan (Charlottesville) stated the phrase “commonly used” in 3.a.iii is subjective and language should be more specific
 - Fran (James City County) asked if having a list in the permit would eliminate the requirement for public participation for the Action Plan
 - § Jaime (DEQ) stated that it would
 - § Dan (Charlotte) clarified that we would be bound to the list of actions listed in the permit
 - Jaime (DEQ) agreed
 - Kathleen (DEQ) stated that providing for variances is standard
 - § Peggy (CBF) stated that based on her understanding this would not meet the spirit of the remand rule
 - Fran (James City County) stated that there are ways to accomplish meaningful citizen participation that can be more or less effective. Stated that if we want citizens to be involved we need to develop an approach other than publishing program plans
 - § Peggy (CBF) stated she feels MS4s are generally doing a good job and that she understands citizen involvement can be problematic, but citizen involvement upfront can be useful in the long run

- § Fran (James City County) stated that, at a minimum, MCM 1 and MCM 2 require education and outreach and permittees are obligated to involve citizens through those efforts
 - § Lisa (VAMSA) stated that the intent of the traditional approach under the remand rule is that the public participation component will occur during review of the permit
 - § Melanie (DEQ) said the question is how do we create a requirement that would provide the flexibility necessary to allow a permittee to do something that is necessary to address an impairment
 - Allan (DEQ) suggested a minimum requirement i.e. at a minimum the permittee shall do x, and could do y if necessary
 - Dan (Charlottesville) asked to clarify if that meant a list would be created that permittees could select from, but they would not be required to do every item on the list
 - DEQ agreed that this was an option
 - Norm (NVRC) stated if we include an option that allows for a variance for the Local TMDL Action Plan, we should circle back and have a similar provision for all the MCMs
 - § Fred (DEQ) agreed we are being inconsistent, but we also need to recognize that if we incorporate discrete lists, in 5 years we can change those list
 - § Jaime (DEQ) agreed and stated that for the MCMs we tried to create categories so they were not as constricting
 - Jaime (DEQ) suggested writing the conditions so that permittees “shall do 4 BMPs, 3 should be on the list and 1 can be something additional”
 - Joe (ASCE) asked if the intent of the list is to allow permittees to change what they are doing from year to year
 - § Norm (NVRC) stated that the list was intended to provide the clear and precise rules for the remand rule. Stated he is concerned about requiring a minimum number of actions because it is prescribing MEP
 - Fran (James City County) stated that in the markup for MCM 1 there was no option for a variance but the items were sufficiently general
 - § Jaime (DEQ) stated that this was the question Erin (Lynchburg) asked earlier. Stated it may be difficult to create categories for this requirement
- Jaime (DEQ) opened the 2014 “Pathogens in Urban Stormwater Systems” report for discussion and suggested incorporating a modified version of the table included in this report into the permit
 - Norm (NVRC) said his view of adopting the table into the permit would be dependent on what the permit language associated with the table is
 - § Jaime (DEQ) stated we would say this is the suite of acceptable BMPs and permittees would be required to select BMPs from that list
 - § Camilla (Army) asked if inclusion of the table would limit permittees ability to use innovative practices

- Dan (Charlottesville) asked if the language could be written to require permittees to choose x number of BMPs from the list (a minimum requirement), but allow permittees to also take additional actions
 - § Camilla (Army) stated we need to be careful about including a minimum number of activities so it does not trap permittees if they are not able to implement the required minimum number from the prescribed list
- Peggy (CBF) asked Jaime to circulate a link to the “Pathogens in Urban Stormwater Systems” report
- John (Christiansburg) stated that permittees might do more than one activity that falls under each MCM – we should make sure that this is allowed under the any proposed language
- Erin (Suffolk) stated we addressed the idea of a minimum in an earlier MCM by saying permittees would be required to do 4 activities, but only 2 could come from the same category
- Jaime (DEQ) stated she will take the language from the “Pathogens in Urban Stormwater Systems” report table and submit it to the TAC for comments

4. Local Sediment TMDLs

- Norm (NVRC) said the TACs comments on 3.i-3.iv will also apply to this section
- Camilla (Army) stated that for 4.iii the permittee would just submit the list of BMPs in the Virginia BMP Clearinghouse to the Department. Asked if this is a useful condition.
 - Jaime (DEQ) stated we can look at this requirement again because that would not be useful, but this language would allow permittees to include additional BMPs
- Norm (NVRC) asked if DEQ has an approved calculation methodology for in-stream sediment generation
 - Jaime (DEQ) stated permittees could follow DEQ’s guidance/Bay Program guidance for the Chesapeake Bay TMDL to quantify those loads
 - Dan (Charlottesville) stated that permittees struggle to quantify loads, not efficiencies
 - Norm (NVRC) stated that it may not be possible to derive the in-stream loading rate for sediment from the information in the TMDL
 - § Liz (DEQ) stated that the TMDL will generally give the loading rate or it can be derived based on the area and the land use loading rates
 - § Norm (NVRC) stated in-stream production is a significant source of the sediment loading to impaired waterways, not the MS4 land area
 - Jaime (DEQ) stated that permittees have some control over in-stream erosion through flow control
 - § Liz (DEQ) stated that there is a WLA for in-stream erosion assigned to localities in some TMDLs in addition to a MS4 allocation that is not for in-stream erosion
 - Jaime (DEQ) asked what permittees need to be able to calculate their loading and percent reduction and to demonstrate compliance. Asked if we need to split this section into two sections: overland and in-stream. Would it be better to address this in guidance

- § Joe (ASCE) stated that at a minimum the permittee need enough information to be consistent with how things are calculated in the TMDL
- Jaime (DEQ) stated we have Action Plans that are already in place for sediment. We need to make sure we do not change the language in the permit in a way that would force permittees to revise existing Action Plans
- Norm (NVRC) suggested adding “more stringent thresholds for E&S or stormwater programs” as an option for credit towards the TMDL
- TAC asked what is the definition of “excessive” in 4.b? Also asked if this issue is covered by MCMs 4, 5, & 6.
 - Erin (Lynchburg) asked if there are additional requirements for a SWPPP developed in a TMDL watershed
 - § Jaime (DEQ) stated that the only additional requirement is more frequent inspections and enhanced stabilization requirements under VSMP
 - § Jaime (DEQ) stated we defined excessive as “more than to be expected from a project with an ESC plan”
 - § Joe (ASCE) stated that normally under a SWPPP if you see a violation you do an inspection and then give the operator a time frame to implement corrective action. Asked what are we being asked to be done that is not already being done
 - § Lisa (VAMSA) asked what is meant by responsibility of the permittee
 - Erin (Lynchburg) asked if the intent of the language that this requirement would only apply to permittee owned project sites discharging to the MS4.
 - Jaime (DEQ) stated that was the intent of this language
 - Erin (Lynchburg) asked that the language be revised to make this clear
 - § Norm (NVRC) stated this requirement is redundant with the SWPPP requirements and other MCMs
 - Jaime (DEQ) stated that we can remove this language
- Joe (ASCE) asked if we should look at the enhanced sediment control expert panel report for BMPs that could be implemented to meet the TMDL requirements
 - Jaime (DEQ) said we need to determine the scope of practices permittees can use to meet the sediment TMDL requirements
 - Camilla (Army) asked if BMPs implement to meet the Bay TMDL requirements can also be used to meet local sediment TMDLs
 - § Jaime (DEQ) said permittees can do this, but to determine when compliance with the WLA is met permittees should use the more conservative WLA number
 - Camilla (Army) suggested removing standards and specs from this requirement language since it does not apply to all permittees and defining excessive load
 - § Tracey (VDOT) suggested keeping “standard and specs” for other permittees that do have standards and specs

- § Jaime (DEQ) said we will look at this language to account for all permittees
- Sarah (Navy) asked what the intent of allowing permittees to have more stringent minimum E&S requirements would be – would that introduce new requirements
 - § Joe (ASCE) stated that the intent is to give permittees the option to voluntarily adopt more stringent requirements for credit towards the TMDL, not create additional requirements
- Sarah (Navy) asked how 4.b is different from requirements in 4.a.iv or 4.a.iii
 - § Norm (NVRC) suggested removing 4.b. because the requirements in 4.b are covered under 4.a.iii
- Jaime (DEQ) stated we will add a table to include: enhanced ESC stormwater programs, stormwater management facilities from BMP clearinghouse and CBP, more stringent thresholds for applications, preconstruction education meetings, adoption of narrative effluent limit guidelines
 - § Erin (Lynchburg) asked if this list will be a “shall pick from” list with a minimum requirement of options
 - § Doug (GKY) stated for most sediment TMDLs E&S is sufficient and permittees should be focused on reducing sediment from existing sources
 - Jaime (DEQ) stated that while E&S adequate, that does not mean there are not ways to further reduce loads from those sites
- Erin (Suffolk) asked if the language presented from the VDOT permit passed the remand rule
 - § Jaime (DEQ) stated it did
 - § Erin (Suffolk) asked if EPA approved this language why it is necessary to create an additional list
 - § Erin (Lynchburg) asked why providing these additional options to permittees cannot be handled through guidance and why this language cannot be left as is
 - Jaime (DEQ) said that is acceptable, but permittees could not use any of the additional aforementioned BMPs/practices not included
 - Erin (Lynchburg) suggested adding street sweeping to the list of potential BMPs
 - Norm (NVRC) asked what BMPs that could address sediment are not listed in the VA BMP Clearinghouse or approved through the Bay Program
 - Erin (Suffolk) stated more stringent ESC requirements do not fall into either of those categories
 - § Peggy (CBF) asked if the language could be simplified by just referring to the Bay Program or VA BMP Clearinghouse
 - John (Christiansbug) asked where preconstruction meetings would fit into this requirement if there was not a list developed for this section
 - Jaime (DEQ) said that could be looped in under MCM 1 or MCM

- Jaime (DEQ) stated we will change the language to refer to the Bay Program BMPs and Clearinghouse BMPs
 - Lisa (VAMSA) asked if we can look at the expert panel report before we remove the list of potential BMPs as an option
 - Joe (ASCE) stated that although permittees will have the authority to adopt more stringent requirements if it is not included as an option, it would be clearer if it were included in the permit language as an option for addressing sediment TMDLs
- Doug (GKY) asked if we reference the VA BMP Clearinghouse in the permit, does that lock the Clearinghouse? Will it only allow permittees to implement BMPs listed in the Clearinghouse at the time the MS4 permit regulation goes into effect?
 - Fred (DEQ) stated this is correct. Permittees would only be able to use BMPs approved at the time the permit goes into effect
 - Alex (Stantec) stated that the BMP Clearinghouse is static in the regs
 - Jaime (DEQ) said we will look into this issue further
- Joe (ASCE) stated that it is important to remember that the Clearinghouse standards were locked in because the regulated community did not want something new to be required. The intent under this permit is to give permittees options
 - Fred (DEQ) agreed, but stated allowing permittees to use BMPs adopted into the Clearinghouse after permit issuance may not be legal

5. PCBs

- Jaime (DEQ) stated this language is oriented towards source identification recognizing that for historical PCB sources the permittee might not be the responsible party
- Camilla (Army) asked what is considered an active operation
 - Jaime (DEQ) asked if there are activities that still produce PCBs on site vs a legacy/historical source i.e. abandoned yard
 - § Camilla (Army) asked if under this requirement she is supposed to identify sites with historical buildings that have caulk that might have PCBs. Right now she is only tracking/addressing those source is the buildings are renovated
 - § Jaime (DEQ) stated residual contamination at a restoration site could be considered an active site unless it is capped
 - Liz (DEQ) says the source tracking has more to do with historically contaminated sites/historical industrial areas. The expectation is to look for and address hotspots where PCBs could be readily measured
 - Doug (GKY) stated that in some rapidly growing area there are no legacy sites, but because of how the TMDL was developed permittees would have an allocation
 - § Liz (DEQ) stated that the load reductions apply to the sources of pollutants. If there is no load coming off a portion of the land, the 98% reduction would apply to locations where there are PCBs
 - Doug (GKY) asks how atmospheric deposition on impervious surface would be taken into account

- § Liz (DEQ) stated it would depend, but TMDLs are not written for atmospheric deposition
 - Ashley (Stantec) said that for some TMDLs a portion of the PCBs that enter the impaired waterbody through atmospheric deposition is assigned to the MS4, but it is a small amount
 - Camilla (Army) asked if DEQ wants everything that might be a potential source and the PCB concentration under 5.b.iii
 - § Jaime (DEQ) stated we do not want the concentration
 - Jaime (DEQ) suggested we strike 5.b.iv
 - Jaime (DEQ) said we need to flesh out the requirements concerning DEQ's expectations when the permittee is the source of PCBs and when the permittee is not the source of PCBs
 - Peggy (CBF) asked if 90 days is the appropriate amount of time to notify DEQ of a potential discharge. Requested a shorter time period
 - § John (Christiansburg) asked if this timespan matches similar requirements in other VPDES permits
 - § Jaime (DEQ) stated it does not
 - Norm (NVRC) suggested we remove "industrial site" from this language. It should not matter if the site is industrial or not
 - Lisa (VAMSA) asked about the use "permittee owned or operated" in 5.b. Also asked and the use of "equipment" and "industrial sites" in this requirement
 - § Jaime (DEQ) stated that the intent of this language is to have the permittee inventory the potential sources of PCBs to their system regardless of whether or not they are owner and operator of the source
 - § Lisa (VAMSA) asked if the intent of this language is to have permittees do a desktop exercise to identify historical sites and their uses
 - Norm (NVRC) stated some of this information should be in the TMDL report
 - Camilla (Army) stated the TMDL report may have a hotspot, but it will not necessarily be comprehensive
 - Jaime (DEQ) stated that the intent was for permittees to perform a desktop audit, community outreach, etc. to determine historic sites that may be PCB hotspots
 - Peggy (CBF) asked again about the 90 day limit
 - § Camilla (Army) stated that permittees may provide an informal notification before a formal notification is made
 - § Peggy (CBF) stated that may not be sufficient if the required timeframes are not made clear i.e. the requirement could be an informal communication to DEQ within a week and a longer time frame for a formal communication
 - § Camilla (Army) asked who is the appropriate person/group to notify and stated that should be made clear in the permit
 - § Kathleen (DEQ) stated the TOSCA notification requirement is 30 days

- Doug (GKY) stated that if we are not talking about sources like historical caulks it is made clear either in the permit or the fact sheet that that is not what is meant by a “hotspot”
 - § Jaime stated that PCBs from sources such as historical caulks are not exposed to stormwater than they are not a source of PCBs, but if they are the permittee will need to note that
 - Fred (DEQ) stated that our primary interest is not individual buildings that may be redeveloped, we are interested in more long-term hotspots
- Allan (DEQ) asked if there is a reporting threshold i.e. permittees should report a site when PCBs exceed x limit
 - § Jaime (DEQ) stated there is not a threshold because we are not requiring permittees actually measure PCBs from a site

OTHER BMPs

Jaime (DEQ) stated there are other pollutants not included in the VDOT permit that we will need to address at a later TAC

A.6.

- Erin (Lynchburg) suggested we move this requirement to A.2 in the permit for clarity

A.7

- Joe (ASCE) suggested changing this language to require the assessment be submitted with the 4th Annual Report, not 48 months after permit issuance
- Joe (ASCE) asked if EPA asked DEQ to report on the effectiveness of the Action Plans
 - Jaime (DEQ) stated EPA did not request this, but DEQ needs some assurance from permittees that reductions are being made
 - Joe (ASCE) stated that without monitoring, everything is guesswork
 - § Fred (DEQ) stated performing an effectiveness evaluation can be difficult to do for bacteria, as opposed to sediment and PCBs which could be easier to evaluate
 - § Dan (Charlottesville) asked if assessing effectiveness using known BMP efficiencies, such as those that are known for sediment reductions under the Bay TMDL would fall under modeling
 - Jaime (DEQ) stated it would
 - Jaime (DEQ) stated the purpose of this condition is similar to a requirement in the last permit
 - § Joe (ASCE) stated that since permittees will be picking BMPs from an approved list, there should not need to be this type of evaluation from permittees
 - § Alex (Stantec) stated doing an evaluation might allow permittees to claim greater reductions if the permittee can show increased reductions
 - § Norm (NVRC) stated an effectiveness evaluation is beyond the capability of a number of the MS4s in the state

- Peggy (CBF) asked if there is an analogous requirement in the existing permit and asked what we have received
 - § Jeff (DEQ) stated we have seen everything from modeling to all of the other options listed in the proposed permit language
 - § Peggy (CBF) asked if people are in good faith making progress
 - Jeff (DEQ) stated that this is what the Department has seen
- Fred (DEQ) stated DEQ and permittees have an obligation to assess whether progress is being made. That is the basis of MEP and the iterative process.
 - § Norm (NVRC) stated that is the purpose of having the 303d list and the state's monitoring. Stated that DEQ does not require an effectiveness evaluation for the Chesapeake Bay TMDL Action Plan
 - § Jaime stated this requirement is similar to the effectiveness evaluation required for the MCMs
 - § Fred (DEQ) stated the calculations permittees are performing under the Bay TMDL can be considered a measure of effectiveness
 - § Dan (Charlottesville) stated that if the permittee is looking at BMPs and evaluating them based on the "known" or modeled effectiveness that would be sufficient to also be considered the effectiveness evaluation
 - Fred (DEQ) agreed it would
 - § Grace (Richmond) said that she is uncomfortable with the vagueness of this language. The models are vague, these measurements would be vague, and it would provide a false certainty about what the permittee is accomplishing. We should avoid having vagueness on top of vagueness.
 - § Sarah (Navy) asked if it would be more helpful for these local TMDLs to report on what was done and DEQ would assess effectiveness at the end of the 48 month period. The current language requires the permittee to have an action plan, but where do they report on what was done
 - Jaime said the reporting requirement is under A.9
 - Sarah (Navy) stated it should be DEQ's responsibility to evaluate effectiveness
 - Jaime stated for individual VPDES permittees we ask those permittees to monitor/measure end of pipe values. We are relying on permittees to demonstrate compliance with their WLA.