



November 9, 2011



Mr. Curt Witynski, Assistant Director
League of Wisconsin Municipalities
122 West Washington Ave.
Madison WI 53703

Subject: Implementation of Total Maximum Daily Loads and Municipal Permits

Dear Mr. Witynski,

On October 5, 2011 you met with representatives of the Department of Natural Resources (DNR) to discuss timelines and flexibility in meeting the waste load allocations (WLAs) contained in the total maximum daily loads (TMDLs) for the Rock River and Lower Fox River Basins. The United States Environmental Protection Agency (EPA) requires that TMDLs be created for water bodies that are listed as impaired. Impaired waters are waters that do not meet numeric or qualitative water quality criteria and standards.

A TMDL provides a numeric allocation of the maximum amount of pollutants from both point and nonpoint sources that can be assimilated by water bodies and still meet criteria or standards. Point sources, those sources issued a permit, receive WLAs and nonpoint sources receive load allocations. Federal law requires that WLAs be reflected in permits.

The DNR is currently examining issues pertaining to TMDLs and stormwater permits for municipalities, specifically the type of permit that should be issued and the allowable compliance periods. DNR is examining how to incorporate WLAs from TMDLs into the current permitting framework such that we can maintain a streamlined permit program and provide municipalities with flexible implementation mechanisms such as water quality trading.

In regards to compliance periods, DNR advocates applying ch. NR 217.16 to permitted municipalities. This approach affords consistency with the State's other permit programs and provides permitted municipalities up to a 15 year compliance period to meet the WLAs in an approved TMDL. This compliance period is subject to EPA approval and may have interim requirements such that during each permit term the municipality demonstrates some progress toward meeting the TMDL allocations.

Under this approach the municipality may also be required to create a long term stormwater management plan similar to that outlined in NR 151.13. Currently the process outlined in NR 151.13 specifically applies to the former 40% TSS reduction requirements; however, the DNR envisions similar language for the implementation of TMDLs. Compliance with the WLA can be demonstrated through modeling or monitoring.

If you have any addition questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Russ Rasmussen". The signature is fluid and cursive, with a long horizontal line extending to the right.

Russ Rasmussen,
Deputy Administrator
Water Division
Wisconsin Department of Natural Resources

cc: Matt Moroney – AD/8
Ken Johnson – AD/8
Susan Sylvester – WQ/3
Mary Anne Lowndes – WQ/3
Jim Bertolacini – WQ/3
Jane Landretti – LE/8
Robin Nyffeler – LE/8