

The *Developed Urban Areas Performance Standard - 20% TSS Reduction: Addendum A (Urbanized Area)* guidance was developed to clarify whether an updated “urbanized area” (as defined under s. NR 216.002(38), Wis. Adm. Code) will result in the need for a permitted municipal separate storm sewer system (MS4) to update its developed urban area modeling to show compliance with the 20% total suspended solids (TSS) reduction performance standard (s. NR 151.13(2)(b)1.b., Wis. Adm. Code). The *Developed Urban Areas and the 20% and 40% TSS Reductions* guidance memo, dated November 24, 2010, did not address this issue. (This guidance memo is available at: http://dnr.wi.gov/topic/stormwater/standards/ms4_modeling.html.)

The Department is soliciting comments from the public on this draft guidance. Once the 21 day notice period is complete, all comments will be considered by the Department. After considering all public comments, revisions may be made to the guidance document and final guidance will be made available to internal and external stakeholders. Comments related to this draft guidance document should be sent to: DNRGUIDANCEDOCUMENTS@wisconsin.gov.



BUREAU OF WATERSHED MANAGEMENT PROGRAM GUIDANCE

Storm Water Management Program

Developed Urban Areas Performance Standard 20% TSS Reduction

Addendum A (Urbanized Area)

Effective: XXX 2016
Guidance #: 3800-2016-XX

Notice: This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

APPROVED:

Pam Biersach, Director
Bureau of Watershed Management

Date

A. Statement of Problem

It is necessary to clarify whether an updated “urbanized area” (UA) as defined under s. NR 216.002(38), Wis. Adm. Code, will result in the need for a permitted municipal separate storm sewer system (MS4) to update its developed urban area modeling to show compliance with the 20% total suspended solids (TSS) reduction performance standard of s. NR 151.13(2)(b)1.b., Wis. Adm. Code. The *Developed Urban Areas and the 20% and 40% TSS Reductions* guidance memo, dated November 24, 2010, did not address this issue. The guidance memo is available at: http://dnr.wi.gov/topic/stormwater/standards/ms4_modeling.html

Note: Pursuant to s. 281.16(2)(am)2., Stats., except as provided in s. NR 281.16(2)(am)3., Stats., the Department may not enforce compliance with the 40% TSS reduction in s. NR 151.13(2)(b)2., Wis. Adm. Code.

B. Background

The developed urban area performance standard for TSS reductions specified under s. NR 151.13(2)(b), Wis. Adm. Code, are to be applied to “existing development” as defined under s. NR 151.002(14g), Wis. Adm. Code. However with each new federal decennial census, the UA is updated based on the population density established by the U.S. Bureau of Census and remapped accordingly. After each decennial census, a given area can be added or removed from the remapped UA.

C. Discussion

The developed urban area performance standard is intended to reduce TSS discharges within areas already developed and not subject to the new development performance standards within subch. III of ch. NR 151, Wis. Adm. Code, which first went into effect with construction site Notice of Intent applications received after October 1, 2004. It is expected that in many cases additional area that is brought into a mapped UA is due to new development, redevelopment or in-fill development. The post-construction performance standards of subch. III of ch. NR 151, Wis. Adm. Code, require post-construction runoff from new development, redevelopment and in-fill development to have 40% or greater TSS reduction. Therefore, the post-construction TSS reduction applied to areas of new development, redevelopment or in-fill development is greater than the 20% developed urban area performance standard. Also areas that utilize a rural roadway design with vegetated drainage systems, as opposed to curb and gutter drainage, are commonly getting 20% or greater TSS control from their vegetated drainage system.

D. Guidance

The following approach is recommended:

1. All unincorporated areas mapped in the 2000 decennial census UA that are annexed into an incorporated permitted MS4’s jurisdiction will be added to the developed urban area analysis for that incorporated permitted MS4. The permitted MS4 may average the TSS reduction over the area it is responsible for but must meet the applicable TSS reduction requirement of s. 281.16(2)(am)2. or 3., Stats.
2. An MS4 permittee that has already conducted a developed urban area analysis based on the 2000 decennial census UA will not be required to revise their analysis based on a subsequently updated decennial census UA (i.e. 2010, 2020, etc.), unless the MS4

permittee has annexed an area as described in item 1 above.

3. MS4s initially permitted after year 2010 are to conduct the developed urban area analysis based on the 2010 decennial census UA. MS4s permitted after subsequent decennial census UAs are to conduct the developed urban area analysis based on the most recent decennial census UA. At a minimum, permitted MS4s in this category must meet a 20% TSS reduction as specified in s. NR 151.13(2)(b)1.b., Wis. Adm. Code, for the applicable UA.
4. Once a permitted MS4 subject to s. NR 216.13 (2)(b)1.b., Wis. Adm. Code, meets the 20% TSS performance standard and continues to maintain its modeled storm water treatment practices, the permitted MS4 does not need to continue to update its developed urban area analysis modeling to show compliance with the 20% TSS performance standard. However, a permitted MS4 subject to s. 281.16(2)(am)3., Stats., must maintain its storm water treatment practices that were already in place as of July 1, 2011.

CREATED:

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Date

APPROVED:

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Date

Runoff Management Policy Management Team approved on **XXXXXX**.