State of Wisconsin
Department of Natural Resources

Responses to Comments
TMDL Guidance for MS4 Permits:
Planning, Implementation, and Modeling Guidance
Addendum A (Percent Reduction)
Guidance #3800-2015-13

February 2016

The DNR only received comments from the North East Stormwater Consortium (NESWC) and their letter is attached. Thank you for taking the time to review and comment on the proposed guidance. Here are NEWSC's comments and DNR responses:

1. **Section B. Background** – Please consider clarifying that state highway, county highway, UW campus etc. are assigned TMDL percent reductions (sediment and phosphorus allocations) as the respective city, village or town.

   Response: This issue has been clarified.

2. **Section C. Discussion. Section Paragraph** - As shown in the attached table, the MS4 urban areas within the Lower Fox River Basins have different baseline unit area loads (lbs/acre/year) for both sediment and phosphorus.

   Response: The Lower Fox River TMDL report indicates that the baseline condition was modeled/simulated using pollutant load discharges from the period of 2004 to 2008. As a result, the baseline unit area load variability is due to a combination of issues including, but not limited to, variations in urban land use, level of stormwater treatment in place, etc. As identified in DNR's public comment summary associated with the October 2014 MS4 TMDL implementation guidance, DNR is assuming that the MS4 baseline levels in the Lower Fox River Basin TMDL are equal to 20% TSS control from a no-controls condition, which is the TSS reduction that was required by year 2008 (NR 151.13, Wis. Adm. Code).

   No change was made based on comment 2.

3. **Section D. Guidance. Item 1** – As shown in the attached table, the MS4 urban areas within the Lower Fox River Basin Sub-Basins have different baseline unit area loads (lbs/acre/year) for both sediment and phosphorus.

   Response: See response to comment 2.

4. **Section D. Item 2** – As shown in the attached table, the MS4 urban areas within many of the Lower Fox River Basin Sub-Basins have higher allocated unit area loads (lbs/acre/year) for both sediment and phosphorus as compared to the urban non-regulated areas. As such, de-gradation within the waterbody may be a concern.

   Response: It is correct that after applying an appropriate annual average reduction to an MS4 permitted area that the unit area load from a permitted area may still be greater than the urban non-regulated area load; it could be higher or lower as identified in the NEWSC letter's tables.

Is this a concern with a MS4's permitted area expanding? If a permitted MS4 expands due to new development, then ch. NR 151, Wis. Adm. Code, new development post-construction performance standards apply to developments of one acre or greater. The new development post-construction standards include 80% TSS control and infiltration requirements. This higher level of stormwater control should provide storm water quality comparable to that needed to meet water quality standards.

If the permitted MS4 expands and incorporates an urban non-regulated area then the additional area is classified as a permitted area and the entire MS4's permitted area is evaluated under the applicable MS4 sub-basin/reach annual average reduction approach. The annual average reduction is applied against the actual urban discharge condition and it will help to offset a potential mass increase.

No change was made to the guidance based on comment 4.

The final guidance was given final approval by the Bureau Director on February 12, 2016.

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Comments to WDNR
TMDL Guidance for MS4 Permits: Planning, Implementation, & Modeling Guidance Addendum A (Percent Reduction)
NEWSC Rules & Regulations Committee
November 16, 2015

November 19, 2015

Please consider the comments below developed by the members of the Northeast Wisconsin Stormwater Consortium when finalizing the proposed TMDL Guidance for MS4 Permits: Planning, Implementation, & Modeling Guidance Addendum A (Percent Reduction).

1. **Section B. Background** - Please consider clarifying that state highway, county highway, UW campuses, etc. are assigned the same TMDL percent reductions (sediment and phosphorus allocations) as the respective city, village or town.

2. **Section C. Discussion. Second Paragraph** – As shown in the attached table, the MS4 urban areas within the Lower Fox River Basin Sub-Basins have different baseline unit area loads (lbs/acre/year) for both sediment and phosphorus.

3. **Section D. Guidance. Item 1** – As shown in the attached table, the MS4 urban areas within the Lower Fox River Basin Sub-Basins have different baseline unit area loads (lbs/acre/year) for both sediment and phosphorus.

4. **Section D. Guidance. Item 2** – As shown in the attached table, the MS4 urban areas within many of the Lower Fox River Basin Sub-Basins have higher allocated unit area loads (lbs/acre/year) for both sediment and phosphorus as compared to the urban non-regulated areas. As such, de-gradation within the water body may be a concern.
   Please see attached document.

TMDL Phosphorus Yields in Lower Fox River Basin

TMDL Sub-Basins	Baseline Urban MS4 (lbs/ac/yr)	Reduction Urban MS4 (%)	Allocated Urban MS4 (lbs/ac/yr)	Allocated Urban NR* (lbs/ac/yr)	Urban Difference (lbs/ac/yr)	Comment
East River	0.64	30.0%	0.45	0.50	(0.05)	OK
Baird Creek	0.78	30.0%	0.54	0.41	0.14	Concern
Bower Creek	0.76	30.0%	0.53	0.48	0.05	Concern
Apple Creek	0.63	30.0%	0.44	0.53	(0.09)	OK
Ashwaubenon Creek	0.58	30.0%	0.40	0.34	0.07	Concern
Dutchman Creek	0.65	30.0%	0.46	0.39	0.07	Concern
Plum Creek	0.96	30.0%	0.67	0.53	0.14	Concern
Kankapot Creek	0.86	30.0%	0.60	0.44	0.16	Concern
Garners Creek	0.74	63.1%	0.27	0.23	0.05	Concern
Mud Creek	0.57	39.0%	0.35	0.73	(0.38)	OK
Duck Creek	0.55	30.0%	0.39	0.38	0.01	Concern
Trout Creek	0.39	30.0%	0.27	0.43	(0.16)	OK
Neenah Slough	0.54	30.0%	0.37	0.40	(0.02)	OK
LFR Mainstem	0.64	30.0%	0.45	0.51	(0.06)	OK
Lower Green Bay	0.66	30.0%	0.46	0.40	0.06	Concern

* Uban Non-Regulated (NR)

TMDL Sediment Yields in Lower Fox River Basin

TMDL Sub-Basins	Baseline Urban MS4 (lbs/ac/yr)	Reduction Urban MS4 (%)	Allocated Urban MS4 (lbs/ac/yr)	Allocated Urban NR* (lbs/ac/yr)	Urban Difference (lbs/ac/yr)	Comment
East River	288	40.0%	173	132	42	Concern
Baird Creek	351	40.0%	211	75	135	Concern
Bower Creek	259	40.0%	155	130	25	Concern
Apple Creek	250	40.0%	150	165	(15)	OK
Ashwaubenon Creek	198	40.0%	119	122	(3)	OK
Dutchman Creek	278	40.0%	167	86	81	Concern
Plum Creek	308	40.0%	185	182	3	Concern
Kankapot Creek	430	40.0%	258	172	86	Concern
Garners Creek	328	49.9%	164	131	33	Concern
Mud Creek	271	28.5%	194	105	89	Concern
Duck Creek	210	40.0%	126	89	38	Concern
Trout Creek	76	40.0%	46	69	(23)	OK
Neenah Slough	315	40.0%	189	171	18	Concern
LFR Mainstem	372	65.2%	130	150	(20)	OK
Lower Green Bay	243	40.0%	146	134	12	Concern

* Uban Non-Regulated (NR)

Please contact us with any questions regarding our comments.

Sincerely,

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NEWSC Member Communities

Brown County
Calumet County
Fond du Lac County
Outagamie County
Winnebago County

UW Oshkosh

City of Appleton
City of DePere
City of Fond du Lac
City of Green Bay
City of Kaukauna
City of Manitowoc
City of Marinette
City of Menasha
City of Neenah
City of Oshkosh
City of Two Rivers

Town of Black Wolf
Town of Buchanan
Town of Fond du Lac
Town of Friendship
Town of Grand Chute
Town of Greenville
Town of Lawrence
Town of Ledgeview
Town of Menasha
Town of Neenah
Town of Scott
Town of Taycheedah

Village of Allouez
Village of Ashwaubenon
Village of Bellevue
Village of Combined Locks
Village of Harrison
Village of Hobart
Village of Kimberly
Village of Little Chute
Village of North Fond du Lac
Village of Sherwood
Village of Suamico