

DATE: September 6, 2007

TO: NR 151 Revision Focus Group

FROM: Mary Anne Lowndes – WT/2

SUBJECT: Principle changes to Subchapters I, III, IV

#### Applicability Changes

- NR 151.11(3) Routine maintenance under 5 acres was exempt from meeting performance standards. This exemption was meant for road ditches. The proposed language clarifies that this is only for road ditches.
- NR 151.002(14m) Definition of existing development will mean development before October 1, 2004.
- NR 151.11(2) and 151.12(2) Clarify that ag building and BMP construction permitted under NR 216 will need to meet the NR 151.11 performance standards, but not the NR 151.12 performance standards.
- NR 151.12(5)(d) Added language for ADID wetlands and protective areas.
- NR 151.21 Changed definition of minor road reconstruction to make it clear that conversion from a rural cross-section to an urban cross-section would not count as minor road reconstruction

#### Performance Standard Changes

- NR 151.11(6) Changed the construction site performance standard from 80% sediment control on an average annual basis to no more than 5 tons/acre/yr (for the period the site is open). This will make it consistent with Commerce's performance standards and RUSLE2 outputs and will allow for easier implementation of a TMDL.
- Change all references under the performance standards that indicate that no person will be required to go beyond the performance standard to include the words "unless specified by a TMDL process". Kevin Kirsch is working on TMDL language for the remainder of NR 151 including the definition of TMDL process.
- NR 151.12(5)(a),(c) The proposed change will prevent redevelopment sites originally developed after Oct. 1, 2004 from backsliding during redevelopment. This will hold redevelopment to the performance standards of the original site.
- NR 151.12(5)(a)2.,(b)2.b.,(c)6.c. Use the same 5 acre threshold and the 10 year from October 1, 2002 timeline for redevelopment as for in-fill.
- NR 151.12(5)(b) Table 2. Change the peak flow curve numbers for cropland to be consistent with a legume under contoured conditions in TR-55. This only lowers the A, B, and C soils by one point. In exchange, we will have a reference for the numbers.
- NR 151.12(5)(c) Deleted the option of calculating the required infiltration volume using a 2-yr, 24-hr event.
- NR 151.12(5)(c) The exclusions will be divided into two groups. The first is source areas that will not receive credit for infiltration due to the potential contaminants from the source areas. The second is areas where infiltration devices are excluded from being built (will not receive credit) due to potential groundwater impacts. The exemptions will be similarly divided again by source areas (areas that are not required to be infiltrated) and infiltration sites (locations where infiltration devices should not be sited). For the exemptions, an applicant will receive credit if they choose to infiltrate anyway. These changes do not change the original intent of this section.

- NR 151.13 Stage 1 and 2 requirements for permitted municipality have compliance dates of 2008 and 2013. These dates will continue to be used except wording will include “or 2 years after permit coverage” for Stage 1 requirements, to be consistent with the municipal general permit. For the Stage 2 requirement, all municipalities listed in NR 216 or that received coverage under the general permit in the first wave of permitting will be held to the 2013 date. For municipalities that receive coverage in a later wave, they will be given 7 years from the date of permit coverage to meet the Stage 2 TSS reduction of 40%.
- NR 151.13(2)(b)2. Add a model version to SLAMM and P8 that everyone must use to calculate the 40%. (They could use a more recent version but not an older version.) This will not affect how the 20% TSS reduction was calculated.
- NR 151.24(10) Currently a highway construction project can use the Swale Treatment section to meet all the performance standards. This will be changed to require that they still must meet the protective area performance standard.

All changes proposed under NR 151.11 and NR 151.12 that apply to the transportation subchapter will be included there after 151.11 and 151.12 goes through the internal and external review process. This will make it easier to provide consistent language between the two subchapters. Errors were made in the first writing of NR 151 when every change to one subchapter necessitated a change to the other subchapter. To prevent that, revisions to subchapter IV will wait until we have final language in subchapter III, but reviewers should assume that the same change will be made to the transportation subchapter.