



WISCONSIN DEPARTMENT OF NATURAL RESOURCES NOTICE OF FINAL GUIDANCE & CERTIFICATION

Pursuant to ch. 227, Wis. Stats., the Wisconsin Department of Natural Resources has finalized and hereby certifies the following guidance document.

DOCUMENT ID

WT-19-0019-C EGAD: 3800-2016-07

DOCUMENT TITLE

Developed Urban Areas Performance Standard 20% TSS Reduction Addendum A (Urbanized Area)

PROGRAM/BUREAU

Storm Water Program/Watershed Management Bureau

STATUTORY AUTHORITY OR LEGAL CITATION

Sections NR 151.13 and 216.002, Wisconsin Administrative Code

DATE SENT TO LEGISLATIVE REFERENCE BUREAU (FOR PUBLIC COMMENTS)

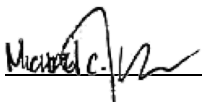
09/02/2019

DATE FINALIZED

10/07/2019

DNR CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.


Signature

09/30/2019

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

Note: A permitted MS4 may need to conduct two separate computer modeling analyses to show compliance with: (a) developed urban area standard (20% TSS) compliance and (b) Total Maximum Daily Load (TMDL) compliance. This guidance memo does not apply to TMDL modeling. Separate guidance has been developed to address MS4 TMDL implementation modeling and it is available at: http://dnr.wi.gov/topic/stormwater/standards/ms4_modeling.html

Recommended guidance is as follows:

1. A permitted MS4 that has already conducted a s. NR 151.13 developed urban area analysis based on the 2000 decennial census UA will not be required to revise their

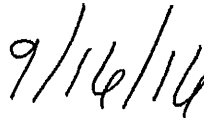
analysis based on a subsequently updated decennial census UA (i.e. 2010, 2020, etc.). However additional modeling may be needed to account for:

- a. Treatment practice added in order to initially achieve the developed urban area standard,
 - b. Treatment practice change that might affect compliance with the developed urban area standard, or
 - c. To address item 2 below.
2. 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 entire area it is responsible for but must meet the applicable TSS reduction requirement of s. 281.16(2)(am)2. or 3., Stats.
3. MS4s initially permitted after year 2010 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.

CREATED:



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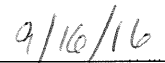


Date

APPROVED:



Mary Anne Lowndes, Chief
Runoff Management Section



Date

Runoff Management Policy Management Team approved on September 13, 2016.

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. 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.