

**State of Wisconsin
Department of Natural Resources
April 2018**

**Responses to Public Comments on the Wisconsin Pollutant Discharge Elimination
System (WPDES) General Construction Storm Water Discharge Permit for:**

**Transportation activities carried out under the direction and supervision of the Wisconsin
Department of Transportation (WisDOT), WPDES General Permit No. WI-S066796-1 (general
permit)**

On October 30, 2017, the Wisconsin Department of Natural Resources (Department) public noticed the proposed general permit named above. On November 29, 2017, the Department held a public hearing on the proposed general permit. The comment period closed on December 4, 2017. The Department received no comments at the public hearing and received one written comment during the public comment period.

U.S. Environmental Protection Agency Review

Prior to the release of the public notice, on September 19, 2017, the Department provided the proposed general permit to the U.S. Environmental Protection Agency (USEPA) for preliminary review. Other than correcting minor typographical errors, the only change made to the general permit as a result of USEPA's preliminary review was to add the underlined text below to section 2.7.1.6:

2.7.1.6 Provide and maintain natural buffers around surface waters, direct storm water to vegetated areas and maximize storm water infiltration to reduce pollutant discharges, unless infeasible or unless exempt pursuant to s. NR 151.244(2), Wis. Adm. Code.

Please note that the change above was included in the public noticed version of the proposed general permit release on October 30, 2017. By letter dated October 19, 2017 (letter attached), USEPA indicated that it will not object to issuance of the general permit as proposed except under certain limited circumstances identified in USEPA's letter.

Public Comments

On November 17, 2017, the Department received a written comment on the proposed general permit from the Milwaukee Metropolitan Sewerage District (MMSD) (letter attached). MMSD requested that the Department modify the general permit to require WisDOT compliance with local storm water runoff standards.

Department Response: Under state law, activities conducted by a state agency are specifically exempt from local construction site erosion control and storm water management ordinances under s. 59.693(8) [counties]; s. 60.627(7) [towns]; s. 61.354(7) [villages]; and s. 62.234(7) [cities]. The Department cannot include requirements in the general permit that contradict these statutes. Consequently, no changes have been made to the general permit in response to this comment.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

WN-15J

OCT 19 2017

Mary Anne Lowndes, Chief
Runoff Management Section, WT/3
Wisconsin Department of Natural Resources
101 South Webster Street
P.O. Box 7921
Madison, WI 53707-7921

Re: U.S. Environmental Protection Agency Review of the Pre-public Notice National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Land Disturbing Construction Activities (Permit No. WI-S066796-1)

Dear Ms. Lowndes:

The U.S. Environmental Protection Agency (EPA) has reviewed the Pre-public Notice National Pollutant Discharge Elimination System (NPDES) General Permit received on September 19, 2017. Based on our review to date, EPA would not object to issuance of this General Permit. Our position could change if any of the following occur:

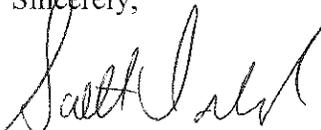
- a. Prior to the actual date of issuance of a Proposed Permit, an effluent guideline or standard is promulgated which is applicable to the permit and which would require revision or modification of a limitation or condition set forth in the Draft Permit;
- b. A variance is granted and the Permit is modified to incorporate the results of that variance;
- c. There are additional revisions to be incorporated into the Permit which have not been agreed to by EPA; or
- d. EPA learns of new information, including as the result of public comments that causes EPA to reconsider its position.

Subject to the above conditions, the permit may be issued in accordance with the Memorandum of Agreement and pursuant to the Clean Water Act.

When the Proposed General Permit is prepared, please forward a copy and any significant comments received during any public notice period to r5npdes@epa.gov. Please include the EPA permit number, the facility name, and the words "Proposed Permit" in the message title. If you have any technical questions related to EPA's review, please contact Brian Bell at (312) 886-0981 or at bell.brianc@epa.gov.

Thank you for your assistance during the review process.

Sincerely,



D. Scott Ireland, Chief
Section 1, NPDES Programs Branch

cc: C. Kimberly Gonzalez, WDNR, electronically
Jim Bertolacini, WDNR, electronically



Kevin L. Shafer, P.E.
Executive Director

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WT/3 - WY/3 - OGL/3

November 11, 2017

C. Kimberly Gonzalez
Stormwater Program WT/3
Department of Natural Resources
Post Office Box 7921
Madison, Wisconsin 53707-7921

Subject: *Proposed General Permit for WisDOT Projects
WPDES Permit WI-S066796-1*

Dear Ms. Gonzalez:

The Milwaukee Metropolitan Sewerage District (District) has the following comments regarding the proposed General Permit for Wisconsin Department of Transportation Projects (WisDOT), WPDES Permit WI-S066796-1. This permit is a great opportunity to support local efforts to protect water resources.

Even without additional runoff, many water resources, especially water resources in urban areas, face many challenges. These problems include severe erosion, bank failure, crumbling retaining walls, incised channels, and high levels of phosphorus, fecal coliform, metals, or other pollutants. In many cases, problems are severe enough to classify the water resource as impaired.

Highway runoff is the most polluting land use in the urban environment. WisDOT projects increase this runoff because they add large areas of impervious surface. For example, the Zoo Interchange project in Milwaukee County is adding **100 acres** of impervious surface. This new impervious surface increases runoff volume, peak flow rates, and pollutant loads, which will make already degraded receiving waters even worse, unless WisDOT implements practices to fully protect receiving waters.

The District and the municipalities it serves have worked diligently for many years to reduce the flooding and pollution caused by runoff. Working together, we have developed and implemented standards to control runoff from both development and redevelopment (MMSD Rules, sec. 13.11). Compliance with local standards is necessary to achieve local goals for water resources, not only in the Milwaukee area, but anywhere with local runoff management rules tailored for local needs.

In response to these concerns, we request that the Department modify the permit to require compliance with local runoff standards. According to the authority established by Wis. Stat. sec. 283.31(3)(d) to implement "any more stringent limitations," the Department should make the following changes to permit secs. 2.7.5 and 3.2.2:

2.7.5 Compliance with Runoff Management Performance Standards

The DOT shall maintain compliance with the transportation facility performance standards in subch IV of ch. NR 151, Wis. Adm. Code, and any runoff management requirements established by a local governmental unit in which the project is located. The BMPs installed to meet the performance standards shall be maintained to meet the control and/or treatment capability of the practice. In accordance with sec. 3.2.6 of this permit, the DOT shall ensure that any permanent structures installed to meet a post-construction performance standard in ss. NR 151.241 to 151.249, Wis. Adm. Code, shall be maintained to meet the treatment capability as originally designed.

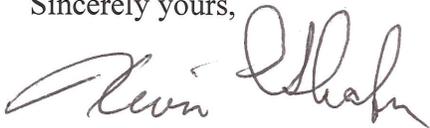
3.2 Storm Water Management Plan Requirements

3.2.2 The stormwater management plan shall be designed to meet the applicable performance standards in ss. NR 151.241 through NR 151.249, Wis. Adm. Code, and any runoff management requirements established by a local governmental unit in which the project is located.

By harmonizing the efforts of all levels of government, we will be able to achieve our water quality goals faster than if we allow transportation projects to avoid local requirements and exacerbate local problems.

If you have questions, please contact Tom Chapman, Senior Project Manager, at tchapman@mmsd.com or 414-225-2154. Thank you for considering these comments.

Sincerely yours,



Kevin L. Shafer, P.E.
Executive Director

c: S. Anthony
T. Chapman
M. Klappa- Sullivan
T. Nowicki