



Municipal Environmental Group Wastewater Division

Regulatory Update

All The News That Fits

July/August 2008

MEMBER NEWS

- **STEERING COMMITTEE MEETING.** The September Steering Committee Meeting will be held on September 10, 2008, in Stevens Point. Members will receive a meeting notice and agenda with the September Informational Bulletin. All members are welcome and encouraged to attend. Attendees receive 2 CEU credits and a free lunch, plus discussion of current matters of interest to the wastewater community.
- **STORMWATER CONFERENCE.** On July 24 and 25, 2008 MEG and other organizations sponsored a conference on stormwater policy for policy makers and technical staff. The conference was held in Manitowoc at the Holiday Inn. Among other things, the conference looked at ways of impacting and responding to stormwater regulations in Wisconsin.

REGULATORY DEVELOPMENTS

- **DNR SEEKING INPUT ON WATER QUALITY STANDARDS.** The DNR has invited MEG, along with other stakeholders, to provide feedback on state surface water quality standards and guidance that are proposed for revision or development during 2008 to 2011. The Department is trying to determine which water quality standards and guidance are the highest priorities for revisions or development. We have an opportunity to comment on the DNR's draft priority list between July 8-August 22, 2008. MEG members can comment by completing an online survey prepared by the Department. The draft priority list, topic descriptions and online survey are available at:
<http://dnr.wi.gov/org/water/wm/wqs/tsr/08011tsrcyclematerial>

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- **TMDL FOR THE ROCK RIVER.** The Department is currently working with the EPA to develop a draft of the TMDL document. Under the original timeline, the draft was due out at the end of March, but that schedule has been pushed back to allow the Department time to work through certain issues with the EPA and its consultants. Conflicts over the draft document appear to be significant and we do not expect the process to move forward until next year.
- **PHOSPHORUS WATER QUALITY STANDARDS.** The phosphorus water quality standards rule is still expected to be developed on an expedited basis; however, the DNR has postponed the next advisory committee meeting until September in order to further explore implementation options. This additional time has given us an opportunity to supply the Department with information on implementation issues and alternatives.

To this end, we have been working with the Rock River TMDL Group, Green Bay Met, as well as with Strand Associates and Madison Metropolitan Sewerage District to develop an implementation strategy. We are compiling data on current phosphorus removal practices and achievable phosphorus levels. In addition, we are researching the legal options available to the DNR to establish a streamlined variance for phosphorus. We are currently working on draft variance language that could be incorporated into the rule. As part of the variance process, we are continuing to press for more active control of non-point contributions before point sources are asked to do more.

As previously noted, the proposed water quality standards would be as follows:

- Large streams 105 ug/l
- Small streams 75 ug/l
- Non-stratified lakes and impoundments 40 ug/l
- Stratified lakes and impoundments 15-30 ug/l
- Great Lakes 5-7 ug/l

For dischargers that are on impaired waters or on effluent dominated streams, the effluent limits will be the water quality standards. For other dischargers, the limits could range from 0.2 mg/l up to the current limit of 1.0 mg/l. Our preliminary data indicates that without variance language, statewide these limits could cost hundreds of millions of dollars.

• **ARSENIC AND OTHER WATER QUALITY STANDARDS.** The Natural Resources Board (NRB) adopted the NR 105 rule revisions at the June Board meeting held on June 25, 2008. The rule revisions were then sent to the Legislature on July 11, 2008 and review of the final rule was assigned to the Senate Committee on Environment and Natural Resources. We expect the Legislature will not object to the rule.

In response to our request, the DNR included a note on arsenic that recognizes certain communities (those that discharge to Lake Michigan waters and have a groundwater water supply that contains high levels of arsenic) will likely have difficulty meeting the proposed criteria. The Department recognizes that those communities may need to request a variance. Although we would have preferred that the Department put streamlined variance provisions directly in the rule, this language is better than nothing and should assist communities in obtaining variances.

The Department's complete response to comments is available at: <http://www.dnr.state.wi.us/org/nrboard/2008/June/06-08-3A2.pdf>

• **THERMAL STANDARDS.** No new news on thermal standards. We are still waiting for the DNR to respond to comments on the draft thermal standards rules and schedule the rules for approval by the Natural Resources Board (NRB). We will let you know when we have more information on this issue.

• **NON-POINT ADVISORY COMMITTEE – NR 151.** The DNR is revising its urban and agricultural non-point standards in NR 151. There are no new developments since the last report.

• **CONTAMINATED SEDIMENT ADVISORY COMMITTEE.** A final draft of a new contaminated sediment rule has been sent to the advisory committee for comments. The plan is to obtain hearing authorization for the rule this fall. The draft rule will apply to all stormwater management structures, except temporary sediment practices and highly contaminated sediments regulated by other provisions, and will provide options to landfilling materials if it is low risk. Specific provisions of the rule include:

- **Testing and ceiling requirements –** The rule does not require testing if it can be certified that the drainage area to the basin is less than 15% commercial, multi-family, institution and industrial and has no other history of contamination. Otherwise testing is required. If testing results show contaminate levels above certain ceiling levels or if a person does not want to test, then the material must be placed in a licensed landfill facility.
- **Land Management Options –** The rule allows for onsite disposal. If the 15% criteria is met, it can be disposed without sampling; if not, it can be disposed onsite only if sampled and is below the ceiling level. Off-site disposal is allowed within the same basin and controlled by same entity as long as sediment is sampled and is below the ceiling level. Defined off-site options, including confined fill, transportation projects and reclamation of non-metallic mine sites, are allowed if sediment is sampled and is below the ceiling level.
- **Landspreading –** The rule allows landspreading if sediment is sampled and is below the ceiling level and meets other criteria for landspreading addressing nutrient management, pathogens and other criteria.

On July 23, we submitted comments on the current draft rule. We urged greater clarity in the options and more flexibility to reduce operational costs. At this time, it is likely that the Department will seek hearing authorization for hearings later this year. We will keep you posted. If you would like a copy of the proposed rule, let us know and we will provide you with one.

• **GREEN TIER CHARTER MOVES FORWARD.** The next Mercury Green Tier Group meeting is scheduled for September 9, 2008 in Plover, WI. At the meeting, Randy Case of the DNR is planning to discuss the mercury pollutant minimization plan inventories submitted by the signatories.

• **AMMONIA MASS LIMITS.** We filed comments on behalf of MEG objecting to ammonia mass limits for Fox River dischargers. There is no official news but the Department may be considering revising some of the ammonia concentration limits for dischargers on the Fox River. We are still awaiting a formal response from DNR on the comments we filed in March.

• **WET GUIDANCE REVISIONS.** The *WDNR Whole Effluent Toxicity (WET) Program Guidance Document* has again been revised as of July 2008. The latest revisions to the WET Guidance Document are available at: <http://dnr.wi.gov/org/water/wm/ww/biomon/>

• **OTHER PENDING RULES.** There is nothing new to report on SSO, bacteria standards, or biosolids.

For more information on any of these topics, please call Paul Kent or Abigail Potts at Anderson & Kent at (608)246-8500 or e-mail:

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