



Municipal Environmental Group Wastewater Division

Regulatory Update

All The News That Fits

March 2009

MEMBER NEWS

• **STEERING COMMITTEE MEETING.** The next Steering Committee Meeting will be held May 6 in Stevens Point in the Wisconsin Room. Members will receive a meeting notice and agenda with the April Informational bulletin. All members are welcome and encouraged to attend. Attendees receive 2 CEU credits and a free lunch, plus the opportunity to discuss matters of current interest to the wastewater community.

• **MARK YOUR CALENDARS!** The fifth annual Municipal Utility Legislative Rally is scheduled for March 18, 2009, at the Inn on the Park Hotel in Madison. It presents a great chance to meet with your Representatives or Senators about issues that affect municipalities. For more info and the registration form, go to the following link. <http://www.meuw.org/2009%20Legislative%20Rally%20Registration%20Materials.pdf>.

• **MERCURY GREEN TIER: CHARTER MEMBERSHIP WINDOW IS OPENING TO A SECOND GROUP.** The Mercury Green Tier Charter is looking to start up a second group. This will be your last opportunity to work in this program with Randy Case of the DNR, as he is retiring later this year. By signing on now, you will be able to get your mercury reduction program approved under Randy's expertise. The membership window is through the end of March. The primary goal of the charter is to help municipalities meet the mercury standard in a flexible and efficient manner. If you have more questions, ask one of

our MEG members already participating: Rich Boden of Plover at 715-345-5259 or RBoden@ploverwi.gov; Tim Reel of Whitewater at 262-473-5920 or treel@ci.whitewater.wi.us or Paul Christensen of Fort Atkinson at 920-563-7766 or pchristensen@fortatkinsonwi.net. If you have any other questions or are ready to sign onto the Charter, contact Julie Baldwin at our office.

• **YOU'RE INVITED.** WisWARN is up and running, with 15 communities already signed up for participation in the program. The purpose of WisWARN is to provide a network where water and wastewater organizations can locate emergency assistance in the form of personnel, equipment and other necessary resources. To learn more about this important program, visit the website, at www.WisWARN.org. Membership is FREE, and necessary documents for joining are all available from the website. For more information, contact Dan Lynch, City of Janesville at 608-755-3116 or lynchd@ci.janesville.wi.us.

LEGISLATIVE ACTIVITY

• **2009-10 BUDGET BILL.** The budget bill has a few changes this year of interest to MEG-member communities. \$20 million has been added to reduce nonpoint source water pollution. While addressing non-point sources is key to nutrients like phosphorus, in the current climate, any increase is a step in the right direction. Of concern is an increase in the percentage of the market interest rate charged for Clean Water Fund loans, from the current rate of 55 percent up to 70 percent. This 15 percent increase is not

helpful to municipalities' already strained budgets. We plan to submit comments opposing this rate increase.

- **2009 ECONOMIC STIMULUS PACKAGE PASSES** – Wisconsin sewers will receive an upgrade to the tune of approximately \$108 million from the economic stimulus package. This funding will most likely be added to the state's Clean Water Fund loan program, bringing the total available in the CWF to \$400 million. According to the DNR, Wisconsin communities intend to apply for over \$1.9 billion in loans in 2009, so, while the extra money will help, it certainly will not completely fix our aging infrastructure.

- **ASSEMBLY BILL 3–BAN ON USE AND SALE OF PHOSPHORUS-CONTAINING FERTILIZER.** This bill proposes a ban on the use/sale of phosphorus-containing fertilizer. The Assembly has passed the bill onto the Senate for approval. MEG will be supporting this bill as a step in addressing the phosphorus issue.

REGULATORY DEVELOPMENTS

- **THERMAL STANDARDS.** The new draft rule has eliminated the POTW exemption and variance. We are working with the Department to develop rule language that will reduce the potential impacts to POTWs. The new rule will not go before the Natural Resources Board until at least April. We are emphasizing the need for more time to compile background information before the rule effects POTWs.

- **PHOSPHORUS WATER QUALITY STANDARDS AND TRADING ISSUES.** The next phosphorus advisory committee meeting has been scheduled for April 30. It appears the DNR is hoping to have a rule ready to go out for public hearing this fall. While it seems hard to imagine the rule will come that far by then, we continue to do what we can to ensure that we have a workable rule:

- We continue to meet with various environmental groups and other POTWs representatives.
- We continue to meet with representatives of the League of Municipalities and Alliance of Cities and industry groups to keep them apprised and involved.
- We have developed an alternative regulatory approach which we have shared with the DNR.

- **WATER QUALITY STANDARDS.** The Department has determined which water quality standards and guidance are the highest priorities for revisions or development as part of its Triennial Standards Review Cycle for 2008 - 2011. In addition to the rules the DNR was already committed to addressing, such as thermal standards and phosphorus, the next priority group includes applicability of standards to nonpoint sources and stormwater, and revisions to chloride implementation. The final priority list, public comment responses and explanations are currently available for your

perusal at: <http://dnr.wi.gov/org/water/wm/wqs/tsr/08011tsr/cyclematerials.htm>.

- **TMDL FOR THE ROCK RIVER.** The Department is currently waiting on additional data gathering and/or review prior to penning the TMDL draft document. We have heard that the EPA has provided additional funding and the consultant is currently gathering data in preparation for the proposed TMDL for public hearing in late spring and approval in late summer. We met with the Rock River TMDL group in late January, and plan another meeting prior to the public hearings to strategize our reaction.

- **TMDL FOR THE FOX RIVER.** Technical meetings are continuing as the Fox River TMDL process moves forward. MEG is working with Green Bay MET to monitor the developments of the TMDL. Formal public hearings are expected later in 2009, even though there is a long way to go to establish limits, allocation, and implementation methodology.

- **NONPOINT AND STORMWATER.** The DNR is revising the urban and agricultural non-point standards in NR 151. Both the League and Alliance have made stormwater a priority item and are looking for modifications in NR 151 that would provide for greater flexibility in meeting the developed area performance standards. Paul is working with the League, the Alliance and the DNR to provide greater flexibility in meeting the developed area performance standards. This rule should be ready to go to the Natural Resources Board early this spring for adoption.

- **CONTAMINATED SEDIMENT ADVISORY COMMITTEE.** MEG attended the Madison public hearing for draft rule NR ch. 528 on February 12, 2009. We also submitted written comments to the DNR on this rule, seeking to clarify the rule and make it a more effective tool to avoid landfilling accumulated sediments. A final advisory committee meeting will be held on March 10.

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 were highlighted in the October 2008 Regulatory Update.

- **OTHER PENDING RULES.** There is nothing new to report on SSO, bacteria standards, or biosolids. We will let you know as soon as there are updates on these issues.

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

*Paul at pkent@andersonkent.com or
Julie at jbaldwin@andersonkent.com.*

To update your contact information, please contact Marjorie Irving at (608)246-8500 or email mirving@andersonkent.com