Wisconsin Department of Natural Resources
Draft 2014 Impaired Waters List Public Informational Webinar
February 12, 2014

Responses to Questions Submitted via Chat Session

Q: What is expected of portions of the stream above the areas proposed as impaired water? For example a stream has the same name before a mill pond and after, but the draft impaired water list only identifies the stream after the mill pond as being impaired (upstream and mill pond are not listed as impaired). Are there expectations for the upstream section?

A: Streams are divided into segments for purposes of assessment against water quality standards. These stream segments, known as assessment units, are considered similar in physical, chemical and biological characteristics, such that data collected from within the segment is representative of the entire segment. Breakpoints between assessment units have been identified based on confluences of streams, points of discharge, road crossings, county lines, or extent of existing water body classifications, such as designated beneficial use classifications, trout waters, Outstanding or Exceptional Resource Water extents, etc. Depending on the water type and use classifications of the millpond and upstream or downstream waters, the applicable water quality criteria may differ.

Q: What is DNR's expectation for facilities that have a storm water discharge permit, will testing be required to know if the storm water is contributing to an impairment? Or is all storm water discharge considered a non-point source and therefore would have no additional requirements?

A: To meet the requirements of the federal Clean Water Act, Wisconsin Department of Natural Resources (WDNR) developed the Wisconsin Pollutant Discharge Elimination System (WPDES) Storm Water Discharge Permit Program which is administered under the authority of ch. NR 216, Wis. Adm. Code. The WPDES Storm Water Program regulates the discharge of storm water in Wisconsin from three potential sources: construction sites, industrial facilities and municipal separate storm sewer systems (MS4s). Regulated storm water discharges are considered point sources, so owners or operators of these sources are required to receive a WPDES permit for their discharge. This permitting mechanism is designed to prevent storm water runoff from washing harmful pollutants into local surface waters such as streams, rivers, lakes or coastal waters. Permittees are required to use best management practices (BMPs) to control and prevent pollutants in storm water runoff.

Section 1.5.1 of the General Permit for Municipal Separate Storm Sewer System states that "within 90 days after the start date of permit coverage under this permit and by March 31 of each odd-numbered year thereafter, the permittee shall determine whether

any part of its MS4 discharges to an impaired water body listed in accordance with section 303(d)(1) of the federal Clean Water Act, 33 USC §1313(d)(1)(C), and the implementing regulation of the US Environmental Protection Agency, 40 CFR §130.7(c)(1).

More information regarding storm water management is available on the following website: http://dnr.wi.gov/topic/stormwater/

Q: Sample/assessment locations are sometimes only in short areas of a segment. For example, sampling may only cover a couple mile segment, but an impaired segment may be 10's of miles. Please explain how the impaired segment lengths are determined.

A: Streams are divided into segments for purposes of assessment against water quality standards. These stream segments, known as assessment units, are considered similar in physical, chemical and biological characteristics, such that data collected from within the segment is representative of the entire segment. Breakpoints between assessment units have been identified based on confluences of streams, points of discharge, road crossings, county lines, or extent of existing water body classifications, such as designated beneficial use classifications, trout waters, Outstanding or Exceptional Resource Water extents, etc. Generally, sample results for a particular station are applied to the entire assessment unit that the station lies within. In some cases, the sample dataset may also be applied to upstream or downstream assessment units, if those datasets are determined to be representative of upstream/downstream assessment units based on professional judgment of the scientist reviewing the assessments.

Q: For an impaired water, If there is no identifiable point source, who is held responsible for restoration/cleanup?

A: WDNR develops Total Maximum Daily Load (TMDL) studies or alternative restoration plans for impaired waters. TMDLs are not self-implementing. Section 303(d) of the Clean Water Act does not specifically require implementation plans for TMDLs. However, point sources of pollution are addressed through permit limits consistent with wasteload allocations (WLA), which are enforceable under Clean Water Act through the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program. After a TMDL has been developed, water quality-based discharge limits in WPDES permits a must be consistent with the requirements of the WLA.

No federal regulatory enforcement program exists for nonpoint sources (NPS) of pollution. NPS are primarily addressed through state/local NPS management programs. Load allocations (LAs) are implemented for NPS through a wide variety of state, local, and federal programs (which may be regulatory, non-regulatory, or incentive-based, depending on the program), as well as voluntary action by citizens. For example, CWA

Section 319 establishes EPA's nonpoint source management program. As part of this program, WDNR receives grant money, and passes some of the funding along to counties and other local groups, to support a wide variety of activities for managing nonpoint sources. Additional information on nonpoint source and 319 funding is available on EPA's Nonpoint Source web site (www.epa.gov/owow/nps). Information on Wisconsin-specific NPS management activities may is available on WDNR's website (http://dnr.wi.gov/topic/nonpoint/).

Although states are not required under section 303(d) to develop TMDL implementation plans, WDNR includes implementation plans with the TMDL or develops them as a separate document. When developed, TMDL implementation plans may provide additional information on what point and nonpoint sources contribute to the impairment and how those sources are being controlled, or should be controlled in the future.

Q: describe an ideal partnership response to TMDLs e.g. how can our watershed organization get engaged?

A: Your watershed organization is encouraged to contact WDNR if your watershed includes impaired waters that are not currently addressed by restoration plans. WDNR will work with you to determine whether a Total Maximum Daily Load (TMDL) study or alternative water quality management plan is best suited to address impaired waters in your watershed. WDNR places a higher priority on restoring impaired waters where there is local interest in developing partnerships for restoration projects. More information on TMDL development and implementation is available on our website (http://dnr.wi.gov/topic/TMDLs/index.html).

Q: What average state Secchi depth corresponds to the 20 ug/l Chl threshold for deep lakes?

A: A secchi depth of about 1.0 meter (3.3 feet) corresponds to the 20 ug/L Chl threshold. This value is an estimation based Trophic Index calculations and shouldn’t be considered an exact correlation, but if you’re taking a secchi depth reading you can get a rough idea of how much Chlorophyll-a is present.

Q: What are the recreational uses standards or guidelines for phosphorus?
A: Recreational Use criteria for phosphorus depends on the type of lake. There is a table in our 2014 WisCALM document on page 35 that gives the specific criteria values (dnr.wi.gov/water/wsswimsdocument.ashx?documentseqno=84480270).

Q: Follow-up on P standards. The standard for Rivers is 100 mg/L. Is there a similar standard for lakes (in particular Lake Michigan beaches)?

A: Phosphorus water quality criteria for certain waterbody types are provided in Section NR 102.06 of Wisconsin Administrative Code (https://docs.legis.wisconsin.gov/code/admin_code/nr/100/102). The criteria applicable to both open and nearshore waters of Lake Michigan is 7 ug/L.

Q: I looked up searles creek on the dnr impaired water search and found that the priority for this 10 mile body of water was marked Not Applicable. What does that mean?

A: If the TMDL priority says "Not Applicable," this usually means that a TMDL has already been developed.

Q: What are the implications of a construction site storm water discharge permit, discharging to a listed waterbody as opposed to a non-listed waterbody?

A: Sections 4.4.3 and 4.4.4 of the Construction Site Storm Water Runoff General Permit No. WI-S067831 address this question and are listed below.

4.4.3 A permittee that will discharge a pollutant of concern via storm water to an impaired water body shall include a written section in the erosion control and storm water management plans that specifically identifies control measures and management practices that will collectively be used to reduce, with the goal of eliminating, the storm water discharge of pollutant(s) of concern that contribute to the impairment of the water body and explain why these control measures and management practices were chosen as opposed to other alternatives. Unless notified by the Department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.

4.4.4 The permittee may not establish a new storm water discharge of a pollutant of concern to an impaired water body or increase an existing discharge of a pollutant of concern to an impaired water body unless the new or increased discharge causes the receiving water to meet applicable water quality standards, or the discharge is consistent with an EPA approved total maximum daily load (TMDL) allocation for the impaired water body. Unless notified by the Department in writing to the contrary, compliance with the applicable performance standards of subch. III or IV of ch. NR 151, Wis. Adm. Code, shall be deemed to be compliance with the requirements of this section.
Verbal answer also provided during the webinar.

Q: Are you seeing a lot of pollutant trading taking place?

A: Water quality trading is a relative new option for Wisconsin Pollutant Discharge Elimination System (WPDES) permit holders to demonstrate compliance with water quality-based effluent limitations. Guidance for implementing water quality trading in WPDES permits was finalized in August 2013. More information about pollutant trading is available on our website (http://dnr.wi.gov/topic/surfacewater/waterqualitytrading.html).

Q: Will you have a copy of this Webinar that we will be able to see at a later date?

A: Yes, a copy of this webinar is posted online at the following website: http://dnr.wi.gov/topic/impairedwaters/2014IR_IWList.html

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Q: Aaron, several of the descriptions under the "Impairments" column are listed as "Impairment Unknown". If the impairments are unknown, why are specific water resources being added to the Impaired Waters list?

A: For phosphorus listings with impairment listed as "Impairment Unknown," the listing is based on a dataset showing phosphorus water quality criteria exceeded, but a biological impaired was not observed. Whereas, phosphorus listings with impairment identified as "Water Quality Use Restrictions" are those that exceed the water quality criteria by a large magnitude, and therefore impaired fish and aquatic life and recreational use is assumed.