

November 12, 2010 Memorandum, “Revisions to the November 22, 2002 Memorandum ‘Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs’”

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How about just “2010 Stormwater Memo” for short?

Today’s presentation will cover the following:

- ❑ Quick overview of what’s in the 2010 SW Memo
- ❑ Why EPA issued the Memo
- ❑ What’s happening now

Four Elements in the 2010 SW Memo:

1. Providing numeric WQBELs in NPDES permits for SW discharges
2. Disaggregating SW sources in a WLA
3. Using a surrogate for pollutant parameters when establishing targets for TMDL loading capacity
4. Designating additional SW sources to regulate and treating LAs as WLAs for newly regulated SW sources

Element #1: Providing numeric WQBELs in NPDES permits for stormwater discharges

- Where WQBELs are required (with or without TMDL), EPA recommends using numeric permit limits where feasible.
- Permit writer should consider TMDL implementation plan when establishing interim requirements/dates.
- Where WQBELs are expressed in the form of BMPs, permit should contain objective, measurable elements.

What could a numeric WQBEL look like?

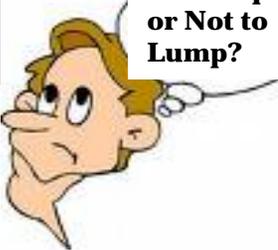
Permit Examples with Numeric Limitations	
Reduce 20% effective impervious cover	Vermont draft General Permit
Concentration-based limits to comply with WLAs	Los Angeles County MS4 permit
Must reduce TSS in runoff by 20% by 2008 and 40% reduction by 2013	Wisconsin's General Permit for small MS4s

Element # 2: Disaggregating stormwater sources in a WLA

- Reiterates that WLAs for regulated SW discharges should be disaggregated into specific categories to the extent feasible
 - e.g., separate WLAs for MS4 and industrial stormwater discharges
 - Disaggregated WLAs should be defined as narrowly as available information allows; e.g.,
 - for municipalities, separate WLAs for each one
 - for industrial sources, separate WLAs for different sources or types of industrial sources or discharges
- Continue to recognize that decisions about TMDL allocations are driven by quantity and quality of existing and readily available water quality data.

TMDL Examples of Disaggregating WLAs for SW

Options for Categorizing SW WLAs

<p>Individual by <u>each stormwater source</u></p>	<p>Wissahickon Creek (PA) Siltation TMDL – WLAs for 16 separate MS4s</p> <p>Potomac Direct Drain (WV) Sediment TMDL – aggregate WLA plus separate WLAs for each impending/active construction site</p>
<p>Aggregated by <u>each type of stormwater source</u></p>	<p>One WLA for all permitted MS4s -- Charles River (MA) Pathogen TMDL</p> <p>One WLA for all permitted construction activities -- Potomac Direct Drain (WV) Sediment TMDL</p> <p>One WLA for all permitted industrial facilities -- Columbia Slough (OR) TMDLs</p>
<p>Aggregated for <u>all stormwater sources</u> (MS4s, construction, industrial)</p>	<p>To Lump or Not to Lump?</p> 

Element #3: Using surrogates for pollutant parameters when establishing targets for TMDL loading capacity

- At times, it may be appropriate to use a surrogate parameter, such as SW flow or impervious cover, in developing WLAs for waters impaired by SW
 - Consistent with the TMDL regulations and NRC Urban Stormwater Report recommendations.
 - Many waterbodies affected by stormwater are listed as impaired due to biological degradation or habitat alteration, rather than for specific pollutants.
 - TMDLs need solid linkage between surrogate and pollutant loadings and surrogate and water quality target (e.g., aquatic life use)

Example Surrogate TMDLs

- More than 15 flow/impervious cover TMDLs established in R1; one in R4; a handful in R7
- Example Surrogate TMDLs:
 - Barberry Creek, Maine TMDL (Impervious Cover)
 - Eagleville Brook, CT TMDL (Impervious Cover)
 - Potash Brook, VT TMDL (Stormwater flow volume)
- Facilitates TMDL implementation by:
 - Providing measurable, meaningful reduction targets for permittees
 - Providing opportunities for educating the community about water quality issues
 - Incorporating Low Impact Development (LID) practices in local SW plans

Element # 4: Designating additional SW sources to regulate and treat LAs as WLAs for newly regulated SW sources

- Encourage more active use of residual designation authority
- Recommend language in the TMDL to provide that LA would be deemed a WLA if the SW discharge is regulated under NPDES
- Recharacterizing the LA as a WLA would not automatically require resubmission of the TMDL to EPA for approval
 - In most cases, if the TMDL's overall loading cap is unchanged, TMDL would not have to be revised.

Residual Designation Examples

Long Creek Watershed, Maine Residual Designation

Charles River, Massachusetts Residual Designation

Moscow, Idaho Residual Designation

Why Revise the 2002 Memo?

- 2002 Memo was issued prior to implementation of Phase II stormwater program to set initial expectations on how TMDL and stormwater regulations worked together.
- The 2002 memo provided a snapshot of the existing status of the TMDL and stormwater programs.
- Since 2002, considerable experience and knowledge have been gained in both TMDLs and stormwater permitting.

Why revise the Memo? (cont'd)

- Some states were using the 2002 Memo to pushback on having numeric limits because the Memo stated numeric limits would be used “in rare circumstances”.
- EPA wanted to express the idea that numeric limitations could be viewed more broadly than by only end-of-pipe limits to show accountability towards meeting WQS.
- Memo revisions were intended to reflect the evolution in state SW NPDES and TMDL programs already.

What's happening now?

- EPA is accepting public comment until May 16, 2011.
- EPA will decide 90 days after the comment period closes whether to retain, rescind, or modify the Memo.
- EPA sent a notification re: public comment period to the following organizations: WEF, NAFSMA, NACWA, APWA, NRDC, ECOS, ASWIPCA, CASQA, River Network.

Some initial stakeholder concerns...

- NAFSMA, NACWA and APWA sent a letter to EPA on Jan. 28th expressing concerns with the following:
 - Process & timing of the Memo
 - MS4 requirements to comply with WQS
 - Use of surrogate TMDLs
- EPA sent a response letter on March 30th in addition to meeting with several NAFSMA reps.

Feedback (cont'd)

- CASQA and other reps in Southern California expressing concerns related to:
 - Costs to implement
 - Appropriate compliance monitoring
 - Technical capacity to evaluate BMPs
- Letter from Sen. Luger on behalf of Hamilton County, Indiana
 - Concerned with cost burden to communities

Resources

- **2010 Revised Memo for Establishing TMDL WLAs for Stormwater Sources:**
http://www.epa.gov/npdes/pubs/establishingtmdlwla_revision.pdf
- **TMDLs and Stormwater Resources Website:**
http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/stormwater_index.cfm
- **HQ Contacts for the 2010 Memo:**
 - Kevin Weiss, NPDES Stormwater Program (weiss.kevin@epa.gov)
 - Jamie Fowler, TMDL Program (fowler.jamie@epa.gov)