



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 23 2010

REPLY TO THE ATTENTION OF:

WW-16J

Paul Eger, Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Dear Mr. Eger:

The U.S. Environmental Protection Agency has conducted a complete review of the final Total Maximum Daily Load (TMDL) for Como Lake, including supporting documentation and follow-up information. Como Lake, ID 62-0055-00, is located in eastern Minnesota in the City of St. Paul. The TMDL was calculated for phosphorus. The TMDL addresses the excessive nutrient impairment of Class 2B waters for Aquatic Recreation Use.

The TMDL meets the requirements of section 303(d) of the Clean Water Act and EPA's implementing regulations at 40 C.F.R. Part 130. Therefore, EPA hereby approves Minnesota's phosphorus TMDL, addressing excess nutrients. The statutory and regulatory requirements, and EPA's review of Minnesota's compliance with each requirement, are described in the enclosed decision document. We wish to acknowledge Minnesota's effort in submitting this TMDL and look forward to future TMDL submissions by the State of Minnesota. If you have any questions, please contact Mr. Peter Swenson, Chief of the Watersheds and Wetlands Branch, at 312-886-0236.

Sincerely,

A handwritten signature in black ink, appearing to read "Tinka G. Hyde".

✓ Tinka G. Hyde
Director, Water Division

Enclosure

cc: Dave L. Johnson, MPCA
Brooke Asleson, MPCA

wq-iw11-05g

TMDL: Como Lake, Minnesota

Date: DEC 23 2010

DECISION DOCUMENT FOR THE APPROVAL OF THE COMO LAKE, MINNESOTA, TMDL

Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations at 40 C.F.R. Part 130 describe the statutory and regulatory requirements for approvable TMDLs. Additional information is generally necessary for EPA to determine if a submitted TMDL fulfills the legal requirements for approval under Section 303(d) and EPA regulations, and should be included in the submittal package. Use of the verb "must" below denotes information that is required to be submitted because it relates to elements of the TMDL required by the CWA and by regulation. Use of the term "should" below denotes information that is generally necessary for EPA to determine if a submitted TMDL is approvable. These TMDL review guidelines are not themselves regulations. They are an attempt to summarize and provide guidance regarding currently effective statutory and regulatory requirements relating to TMDLs. Any differences between these guidelines and EPA's TMDL regulations should be resolved in favor of the regulations themselves.

1. Identification of Waterbody, Pollutant of Concern, Pollutant Sources, and Priority Ranking

The TMDL submittal should identify the waterbody as it appears on the State's/Tribe's 303(d) list. The waterbody should be identified/georeferenced using the National Hydrography Dataset (NHD), and the TMDL should clearly identify the pollutant for which the TMDL is being established. In addition, the TMDL should identify the priority ranking of the waterbody and specify the link between the pollutant of concern and the water quality standard (see section 2 below).

The TMDL submittal should include an identification of the point and nonpoint sources of the pollutant of concern, including location of the source(s) and the quantity of the loading, e.g., lbs/per day. The TMDL should provide the identification numbers of the NPDES permits within the waterbody. Where it is possible to separate natural background from nonpoint sources, the TMDL should include a description of the natural background. This information is necessary for EPA's review of the load and wasteload allocations, which are required by regulation.

The TMDL submittal should also contain a description of any important assumptions made in developing the TMDL, such as:

- (1) the spatial extent of the watershed in which the impaired waterbody is located;
- (2) the assumed distribution of land use in the watershed (e.g., urban, forested, agriculture);

- (3) population characteristics, wildlife resources, and other relevant information affecting the characterization of the pollutant of concern and its allocation to sources;
- (4) present and future growth trends, if taken into consideration in preparing the TMDL (e.g., the TMDL could include the design capacity of a wastewater treatment facility); and
- (5) an explanation and analytical basis for expressing the TMDL through *surrogate measures*, if applicable. *Surrogate measures* are parameters such as percent fines and turbidity for sediment impairments; chlorophyll *a* and phosphorus loadings for excess algae; length of riparian buffer; or number of acres of best management practices.

Comment:

Location Description/Spatial Extent: The Watershed Section of the TMDL states that Como Lake (ID 62-0055-00) is located in eastern Minnesota in the City of St. Paul, in the Capitol Region Watershed District (CRWD). The lake is in the North Central Hardwood Forest Ecoregion in the upper Mississippi River Watershed, within three municipalities in Ramsey County: St. Paul, Falcon Heights, and Roseville. The watershed drains 1,783 acres and includes twenty-two storm sewers that discharge into the lake. Because the lake depth is less than 15 feet for more than 80% of the lake, it is defined by the Minnesota Pollution Control Agency (MPCA) as a “shallow lake”, and mixes several times throughout the year, with some stratification at other times. The lake currently and historically is used for many types of recreation, fishing, and aesthetic viewing. The park is one of the most used parks in the area, and is home to many plant and animal species. This submittal is for one phosphorus TMDL.

Land use: The Land Use Section of the TMDL states that the watershed land use is 54% single family residential, 20.4% parks/recreation/preserves, 7.5% institutional, 6.7% commercial, and 4.3% open water.

Problem Identification: The Background Section of the TMDL states that Como Lake is within the Capitol Region Watershed District (the District) mentioned above, and is classified as a shallow lake. To better manage the resources, the District produced a management plan in 2002 that included issues, goals, and implementation plans to reduce nutrients into the lake, focusing on external sources. The external and internal inputs of phosphorous into the lake cause increases in plant and algal growth, as measured by chlorophyll *a*. Shallow lakes in particular are sensitive to increases in nutrients as the potential for plant growth increases, because sunlight and oxygen supplies influence a greater portion of a shallow lake when compared to a deeper one.

The relationship of chlorophyll *a* and total phosphorus (TP) is shown below in the plot in Figure 5, taken directly from the TMDL. Overall there is a trend of increased phosphorus in the lake and increased chlorophyll *a* production. Figure 7, taken from the TMDL, shows that there is an inverse relationship of increasing chlorophyll *a* and decreasing transparency (secchi disk depth). However, the responses of a shallow lake to nutrient inputs or reductions are more complicated than a linear relationship, and depend on whether the lake is phytoplankton (algae) dominated, which decreases the transparency of the lake, or macrophyte (plants) dominated, which results in more transparent waters because the plant roots stabilize the sediment and keep the lake clearer. Figure 8, taken directly from the TMDL, shows in the lower curve, an increase of phosphorus

occurs while the water is in a clear state, then a threshold is reached and the system rapidly shifts to a turbid state. This dramatic shift occurs when the environment changes from macrophyte dominated (clear) to phytoplankton dominated (turbid).

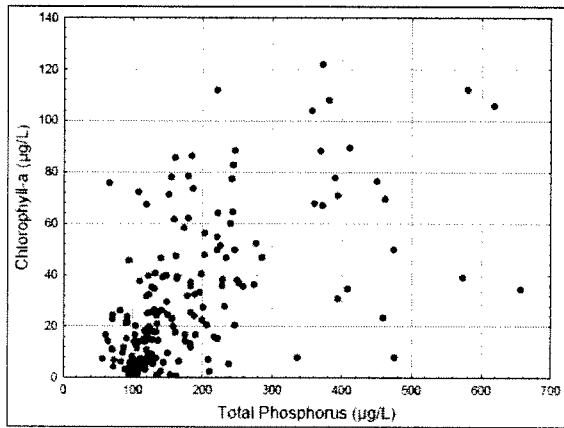


Figure 6. Relationship of Chlorophyll-a to TP in Como Lake, 1993-2007.

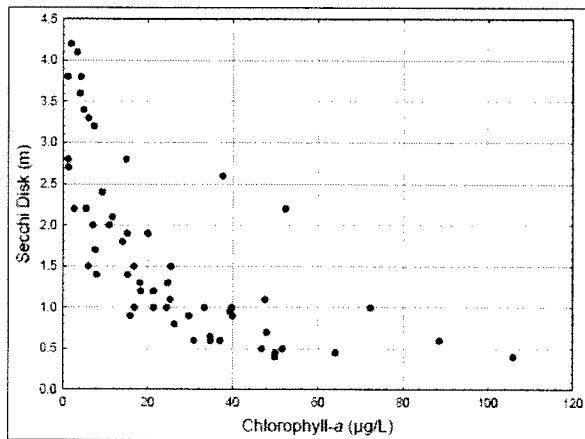


Figure 7. Relationship of Secchi Depth to Chlorophyll-a in Como Lake, 1993-2007.

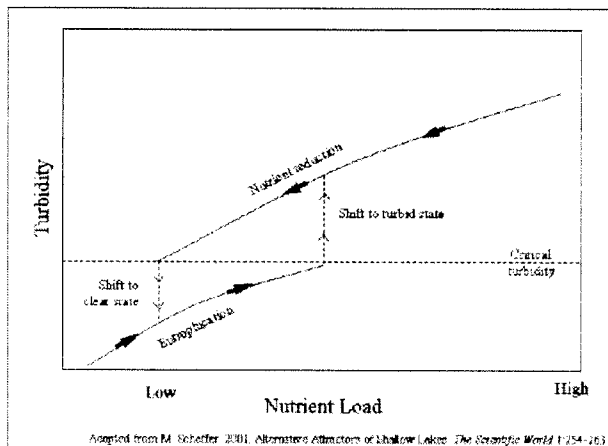


Figure 8. Alternative Stable States in Shallow Lakes.

Population and Growth Trends: In the population projection for 2030, St. Paul, Falcon Heights and Roseville are expected to increase 15.4%, 9.5%, and 13.7%, respectively. Future projections also indicate an increase in some land uses, especially in residential and industrial development, and a decrease in others.

Pollutant of Concern: The pollutant of concern is excess nutrients (phosphorus).

Source Identification: Section 4 of the TMDL states that both point and nonpoint sources contribute to elevated phosphorus conditions in the lake, and associated chlorophyll *a* and secchi disk readings. Sources are watershed runoff, internal loading, and atmospheric deposition. Water quality is poor throughout the growing season. Even though the point source load contribution may be from surface runoff of municipalities, none of the runoff is considered a nonpoint source contribution because all of the drainage area is included in the District’s Municipal Separate Storm Sewer System (MS4) permits. Table 5 below shows the MS4 permittees. St. Paul is a Phase I community with a large MS4 population (over 100,000), and Roseville and Falcon Heights are Phase II communities. There are no industrial permits, and there are various temporary construction general permits.

Table 5. Permitted Point Sources.

MS4	NPDES Permit Number	Area in Como Lake Watershed (ac)	Percent Area in Watershed
Capitol Region WD	MS400206	0	0%
City of Saint Paul	MS400054	1178	64%
City of Falcon Heights	MS400018	226	12%
City of Roseville	MS400047	408	22%
Ramsey County	MS400191	42	2.3%
Mn/DOT Metro District	MS400170	0.6	0.032%

The nonpoint source contributions to loading are from internal lake loading and atmospheric loading. There are several factors contributing to the internal lake loading, including anoxic conditions which pull the phosphorus out of the water, bottom feeding fish that stir up sediments, disturbance at the surface due to winds, and release from curly leaf pondweed. Atmospheric loading was determined by the default rate, to be further discussed in the methodology section below.

Priority Ranking: The TMDL submittal states that the priority ranking is implicit in the TMDL schedule included in Minnesota’s 303(d) list. This TMDL project was scheduled to begin in 2010 and targeted to be completed in 2014. Ranking criteria include: impairment impacts on public health and aquatic life; public value of the impaired water; likelihood of completing the TMDL and restoring the water; local interest and assistance with the TMDL; and sequencing of TMDLs within a watershed.

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this first element.

2. Description of the Applicable Water Quality Standards and Numeric Water Quality Target

The TMDL submittal must include a description of the applicable State/Tribal water quality standard, including the designated use(s) of the waterbody, the applicable numeric or narrative water quality criterion, and the antidegradation policy. (40 C.F.R. §130.7(c)(1)). EPA needs this information to review the loading capacity determination, and load and wasteload allocations, which are required by regulation.

The TMDL submittal must identify a numeric water quality target(s) – a quantitative value used to measure whether or not the applicable water quality standard is attained. Generally, the pollutant of concern and the numeric water quality target are, respectively, the chemical causing the impairment and the numeric criteria for that chemical (e.g., chromium) contained in the water quality standard. The TMDL expresses the relationship between any necessary reduction of the pollutant of concern and the attainment of the numeric water quality target. Occasionally, the pollutant of concern is different from the pollutant that is the subject of the numeric water quality target (e.g., when the pollutant of concern is phosphorus and the numeric water quality target is expressed as Dissolved Oxygen (DO) criteria). In such cases, the TMDL submittal should explain the linkage between the pollutant of concern and the chosen numeric water quality target.

Comment:

Designated Use: Section 2A states that the waters are classified Class 2B, 3B, 4A, 4B, 5, and 6 waters. The most protective is Class 2, which is the aquatic life and recreation use. Minnesota Rules 7050.0140 Subp. 3 states: Aquatic life and recreation includes all waters of the state which do or may support fish, other aquatic life, bathing, boating, or other recreational purposes, and where quality control is or may be necessary to protect aquatic or terrestrial life or their habitats, or the public health, safety, or welfare.

Standards: Minnesota uses both the size of the waterbody and its ecoregional location to determine standards for a waterbody. Como Lake is classified as a shallow lake in the North Central Hardwood Forest Ecoregion. Though this TMDL only addresses phosphorus, three measurements are used for the standard: phosphorus, chlorophyll *a*, and secchi depth. The water quality standard for Como Lake is:

- 60 µg/L phosphorus;
- 20 µg/L chlorophyll *a*; and,
- clarity not less than 1.0 meters secchi depth.

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this second element.

3. Loading Capacity - Linking Water Quality and Pollutant Sources

A TMDL must identify the loading capacity of a waterbody for the applicable pollutant. EPA regulations define loading capacity as the greatest amount of a pollutant that a water can receive without violating water quality standards (40 C.F.R. §130.2(f)).

The pollutant loadings may be expressed as either mass-per-time, toxicity or other appropriate measure (40 C.F.R. §130.2(i)). If the TMDL is expressed in terms other than a daily load, e.g., an annual load, the submittal should explain why it is appropriate to express the TMDL in the unit of measurement chosen. The TMDL submittal should describe the method used to establish the cause-and-effect relationship between the numeric target and the identified pollutant sources. In many instances, this method will be a water quality model.

The TMDL submittal should contain documentation supporting the TMDL analysis, including the basis for any assumptions; a discussion of strengths and weaknesses in the analytical process; and results from any water quality modeling. EPA needs this information to review the loading capacity determination, and load and wasteload allocations, which are required by regulation.

TMDLs must take into account *critical conditions* for stream flow, loading, and water quality parameters as part of the analysis of loading capacity. (40 C.F.R. §130.7(c)(1)). TMDLs should define applicable *critical conditions* and describe their approach to estimating both point and nonpoint source loadings under such *critical conditions*. In particular, the TMDL should discuss the approach used to compute and allocate nonpoint source loadings, e.g., meteorological conditions and land use distribution.

Comment:

TMDL (for TP) = Load Allocation + Wasteload Allocation

$$0.83 \text{ lbs/day} = 0.15 \text{ lbs/day} + 0.68 \text{ lbs/day}$$

Table 15. TMDL Allocation Summary

Source	TMDL (lbs/yr)	TMDL (lbs/day)
Load Allocation	57	0.15
Wasteload Allocations		
MS4 or other source	NPDES Permit #	
City of Falcon Heights	MS400018	
City of Saint Paul	MS400054	
City of Roseville	MS400047	
Ramsey County	MS400191	248.92
Capitol Region Watershed District	MS400206	
Construction stormwater	Various	
Industrial site stormwater	No current permitted sources	
Minnesota Department of Transportation	MS400170	0.08
Total TMDL	306	0.83

Method for cause and effect: Overall the loading capacity for TP is comprised of watershed runoff, internal lake loading, and atmospheric deposition. Sections 4.A, 4.B, and 4.C in the TMDL state that two methods were used to determine the loading, one for the runoff (P8 - Program for Predicting Polluting Particle Passage through Pits, Puddles, and Ponds) and another for in-lake mass balance and atmospheric deposition (WiLMS - Wisconsin Lake Modeling Suite, V.3.3.18). Section 5.A in the TMDL summarizes the integration of the methods.

Watershed Runoff - The P8 Urban Catchment Model is a stormwater runoff model that can model the behavior of the pollutants and can estimate the treatment effects of several BMPs or removal

devices. The model was used to estimate flow and loads from the watershed. Inputs to the model include watershed characteristics such as slope, curve number, and percent impervious cover; the presence of ponds and lakes, precipitation and temperature, and pollutant characteristics. The prediction of phosphorus loads in lakes is not always straightforward, as the runoff may have different amounts of phosphorus concentration regardless of whether it is a wet, dry, or average year. Large amounts of runoff may add to the phosphorus in the lake, or large amounts of water may flush out the lake and reduce the phosphorus load. Dry years may concentrate phosphorus and reintroduce it from the sediment even if large amounts of the contaminant were not added from runoff.

Internal loading – Section 4.B of the TMDL states that internal loading was calculated using a mass balance approach and WiLMS to determine in-lake phosphorus concentrations, and calculates assimilative capacity of the lake. The watershed load derived from P8 was input into WiLMS, and the additional load needed to calibrate the model was calculated to be the internal load. Components of internal loading are: anoxic conditions, physical disturbance from bottom feeding, physical disturbance from wind mixing, and release from decaying curly leaf pondweed.

Atmospheric loading - was calculated using the WiLMS model default rate of 0.27 lbs/ac-yr. MPCA states that the default rate is within the range of rates reported in Minnesota.

Critical Conditions: Section 7 of the TMDL states that the critical condition is in the summer, when TP concentrations peak. Figure 13 below, taken directly from the TMDL, shows the seasonal increase in phosphorus over a 10 year interval from 1998 – 2007.

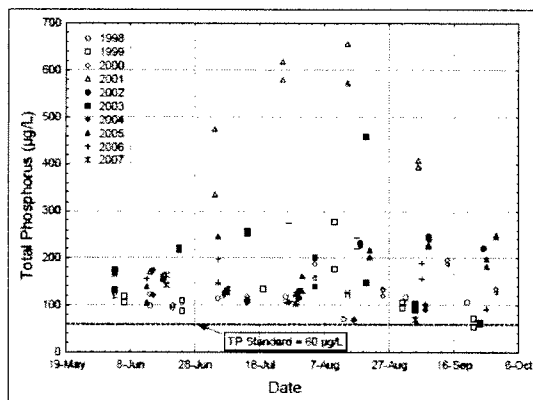


Figure 13. Como Lake Seasonal TP Patterns, 1998-2007.

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this third element.

4. Load Allocations (LAs)

EPA regulations require that a TMDL include LAs, which identify the portion of the loading capacity attributed to existing and future nonpoint sources and to natural background.

Load allocations may range from reasonably accurate estimates to gross allotments (40 C.F.R. §130.2(g)). Where possible, load allocations should be described separately for natural background and nonpoint sources.

Comment:

Section 6D of the TMDL shows the load allocations. The table below is a subset of Table 14 in the TMDL.

Daily Load Allocations

Source	Existing Load (lbs/day)	Load Allocation (lbs/day)	Required Load Reduction (lbs/day)	Percent Reduction
Internal Load	3.26	0.10	3.16	97%
Atmospheric Load	0.05	0.05	0	0%
Total	3.31	0.15	3.16	95%

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this fourth element.

5. Wasteload Allocations (WLAs)

EPA regulations require that a TMDL include WLAs, which identify the portion of the loading capacity allocated to individual existing and future point source(s) (40 C.F.R. §130.2(h), 40 C.F.R. §130.2(i)). In some cases, WLAs may cover more than one discharger, e.g., if the source is contained within a general permit.

The individual WLAs may take the form of uniform percentage reductions or individual mass based limitations for dischargers where it can be shown that this solution meets WQSs and does not result in localized impairments. These individual WLAs may be adjusted during the NPDES permitting process. If the WLAs are adjusted, the individual effluent limits for each permit issued to a discharger on the impaired water must be consistent with the assumptions and requirements of the adjusted WLAs in the TMDL. If the WLAs are not adjusted, effluent limits contained in the permit must be consistent with the individual WLAs specified in the TMDL. If a draft permit provides for a higher load for a discharger than the corresponding individual WLA in the TMDL, the State/Tribe must demonstrate that the total WLA in the TMDL will be achieved through reductions in the remaining individual WLAs and that localized impairments will not result. All permittees should be notified of any deviations from the initial individual WLAs contained in the TMDL. EPA does not require the establishment of a new TMDL to reflect these revised allocations as long as the total WLA, as expressed in the TMDL, remains the same or decreases, and there is no reallocation between the total WLA and the total LA.

Comment:

Section 6C of the TMDL states that the sources comprising the WLA are regulated under the NPDES program on a watershed level, and have a categorical WLA; the stormwater permittees

will have to achieve the reductions by the group as a whole, rather than individual WLAs. The permittees include:

- Ramsey County;
- Capitol Region Watershed District;
- Phase I MS4 community St. Paul (population over 100,000); and,
- Phase II MS4 communities of Falcon Heights and Roseville (pop. under 100,000).

The various potential general construction stormwater permits and industrial stormwater permits were also calculated and included in this categorical WLA, though these entities change. The Minnesota Department of Transportation has its own permit and wasteload allocation, as shown in the bottom row in Table 13 below.

Table 13. Wasteload Allocations

Permit Name	Permit Number	Existing (1994) TP Load (lbs/year)	WLA (lbs/year)	WLA (lbs/day)	Percent Reduction
City of Saint Paul	MS400054	624.80	248.92	0.68	60%
City of Falcon Heights	MS400018				
City of Roseville	MS400047				
Ramsey County	MS400191				
Capitol Region Watershed District	MS400206				
Construction stormwater	Various				
Industrial stormwater	No current permitted sources				
Mn/DOT	MS400170	0.20	0.08	0.00022	60%*

* Mn/DOT's load reductions have already been achieved through the implementation of BMPs by other regulated MS4s

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this fifth element.

6. Margin of Safety (MOS)

The statute and regulations require that a TMDL include a margin of safety (MOS) to account for any lack of knowledge concerning the relationship between load and wasteload allocations and water quality (CWA §303(d)(1)(C), 40 C.F.R. §130.7(c)(1)). EPA's 1991 TMDL Guidance explains that the MOS may be implicit, i.e., incorporated into the TMDL through conservative assumptions in the analysis, or explicit, i.e., expressed in the TMDL as loadings set aside for the MOS. If the MOS is implicit, the conservative assumptions in the analysis that account for the MOS must be described. If the MOS is explicit, the loading set aside for the MOS must be identified.

Comment:

Section 6.A of the TMDL submittal states that there is an implicit MOS because of conservative assumptions made in the modeling process. One assumption is the sedimentation rate in the model; this is the rate at which TP settles out into the sediment and is unavailable for use in the lake. The rate used in the model under-predicts the TP loss, and thus over-estimates the TP available for use. Another conservative assumption is calibrating to phosphorus levels in the turbid lake phase, which limits (reduces) the assimilative capacity of the lake for phosphorus. If

the model was calibrated to the clear water phase, the assimilative capacity of the lake would have been greater and would allow a greater phosphorus loading capacity in the system.

EPA finds that the TMDL document submitted by MPCA contains an appropriate MOS satisfying all requirements concerning this sixth element.

7. Seasonal Variation

The statute and regulations require that a TMDL be established with consideration of seasonal variations. The TMDL must describe the method chosen for including seasonal variations. (CWA §303(d)(1)(C), 40 C.F.R. §130.7(c)(1)).

Comment:

Seasonal variation was considered as described in Section 7 of the TMDL. Growing season averages are used in the calculations, which include a wide range of water quality parameters. There are also several figures in the TMDL which show the range of data considered for TP, chlorophyll *a*, and secchi depth.

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this seventh element.

8. Reasonable Assurances

When a TMDL is developed for waters impaired by point sources only, the issuance of a National Pollutant Discharge Elimination System (NPDES) permit(s) provides the reasonable assurance that the wasteload allocations contained in the TMDL will be achieved. This is because 40 C.F.R. 122.44(d)(1)(vii)(B) requires that effluent limits in permits be consistent with “the assumptions and requirements of any available wasteload allocation” in an approved TMDL.

When a TMDL is developed for waters impaired by both point and nonpoint sources, and the WLA is based on an assumption that nonpoint source load reductions will occur, EPA’s 1991 TMDL Guidance states that the TMDL should provide reasonable assurances that nonpoint source control measures will achieve expected load reductions in order for the TMDL to be approvable. This information is necessary for EPA to determine that the TMDL, including the load and wasteload allocations, has been established at a level necessary to implement water quality standards.

EPA’s August 1997 TMDL Guidance also directs Regions to work with States to achieve TMDL load allocations in waters impaired only by nonpoint sources. However, EPA cannot disapprove a TMDL for nonpoint source-only impaired waters, which do not have a demonstration of reasonable assurance that LAs will be achieved, because such a showing is not required by current regulations.

Comment:

Section 10 of the TMDL submittal states that there is reasonable assurance that the TMDL will be implemented due to the many stakeholders already involved. The CRWD will serve as coordinator to assist others in meeting TMDL requirements. They will include an inventory and accounting for reductions, a technical resource for MS4s, monitoring, and documentation of efforts. There are CRWD rules that have been adopted, a Watershed Management Plan, MS4 permit programs, and the Como Lake Strategic Management Plan completed in 2002 which includes strong technical guidance.

EPA finds that this criterion has been adequately addressed.

9. Monitoring Plan to Track TMDL Effectiveness

EPA's 1991 document, *Guidance for Water Quality-Based Decisions: The TMDL Process* (EPA 440/4-91-001), recommends a monitoring plan to track the effectiveness of a TMDL, particularly when a TMDL involves both point and nonpoint sources, and the WLA is based on an assumption that nonpoint source load reductions will occur. Such a TMDL should provide assurances that nonpoint source controls will achieve expected load reductions and, such TMDL should include a monitoring plan that describes the additional data to be collected to determine if the load reductions provided for in the TMDL are occurring and leading to attainment of water quality standards.

Comment:

Section 8 of the TMDL states that the CRWD will work with MS4s and Ramsey County Public Works to monitor the effectiveness of the implementation efforts in the watershed. Plans include both lake and watershed monitoring, and are very comprehensive. Lake monitoring will include TP, soluble reactive phosphorus, nitrogen, chlorophyll *a*, temperature, dissolved oxygen, and transparency (biweekly during the growing season). Zooplankton monitoring should be undertaken for a full season, every five years, along with a fish survey in the same timeframe.

On watershed level, at the outlet of each subwatershed, TP, soluble reactive phosphorus, nitrogen, and TSS should be monitored during storm events; the same pollutants and turbidity should be monitored biweekly during the growing season under baseflow conditions. Finally, flow should be monitored at the subwatershed level.

EPA finds that this criterion has been adequately addressed.

10. Implementation

EPA policy encourages Regions to work in partnership with States/Tribes to achieve nonpoint source load allocations established for 303(d)-listed waters impaired by nonpoint sources. Regions may assist States/Tribes in developing implementation plans that include reasonable assurances that nonpoint source LAs established in TMDLs for waters impaired solely or primarily by nonpoint sources will in fact be achieved. In addition, EPA policy recognizes that

other relevant watershed management processes may be used in the TMDL process. EPA is not required to and does not approve TMDL implementation plans.

Comment:

As stated in the previous section on reasonable assurances, several efforts are already underway as implementation has begun and will continue. The TMDL, modeling, workgroups, strategies and studies will support effective implementation. Three groups have been formed to assist in implementation: an Advisory Group, a Data Collection and Management Work Group, and a Public Outreach Work Group. Their roles include an implementation and monitoring process, review of issues, management concerns, options, and implementation scenarios. Public outreach includes use of the media, stewardship activities, and outreach to schools and governments.

EPA finds that this criterion has been adequately addressed.

11. Public Participation

EPA policy is that there should be full and meaningful public participation in the TMDL development process. The TMDL regulations require that each State/Tribe must subject calculations to establish TMDLs to public review consistent with its own continuing planning process (40 C.F.R. §130.7(c)(1)(ii)). In guidance, EPA has explained that final TMDLs submitted to EPA for review and approval should describe the State's/Tribe's public participation process, including a summary of significant comments and the State's/Tribe's responses to those comments. When EPA establishes a TMDL, EPA regulations require EPA to publish a notice seeking public comment (40 C.F.R. §130.7(d)(2)).

Provision of inadequate public participation may be a basis for disapproving a TMDL. If EPA determines that a State/Tribe has not provided adequate public participation, EPA may defer its approval action until adequate public participation has been provided for, either by the State/Tribe or by EPA.

Comment:

The TMDL was public noticed from August 30, 2010 to September 29, 2010. Copies of the draft TMDL were made available upon request and on the Internet web site:

<http://www.pca.state.mn.us/index.php/view-document.html>

The Minnesota Department of Transportation and the Minnesota Department of Natural Resources provided comments to the MPCA during the public comment period. The comments were adequately addressed by MPCA and are included with the final TMDL submittal. MPCA also adequately addressed EPA comments.

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this eleventh element.

12. Submittal Letter

A submittal letter should be included with the TMDL submittal, and should specify whether the TMDL is being submitted for a *technical review* or *final review and approval*. Each final TMDL submitted to EPA should be accompanied by a submittal letter that explicitly states that the submittal is a final TMDL submitted under Section 303(d) of the Clean Water Act for EPA review and approval. This clearly establishes the State's/Tribe's intent to submit, and EPA's duty to review, the TMDL under the statute. The submittal letter, whether for technical review or final review and approval, should contain such identifying information as the name and location of the waterbody, and the pollutant(s) of concern.

Comment:

The EPA received the final Como Lake TMDL on November 29, 2010, accompanied by a submittal letter dated November 22, 2010. In the submittal letter, MPCA stated that the submission includes the final TMDL for phosphorus to address excess nutrients (ID 62-0055-00). The lake is impaired for a healthy community of cool or warm water sport or commercial fish, aquatic life, and their habitat, and for recreational use and bathing.

EPA finds that the TMDL document submitted by MPCA satisfies all requirements concerning this twelfth element.

13. Conclusion

After a full and complete review, EPA finds that the phosphorus TMDL for Como Lake satisfies all of the elements of an approvable TMDL. This approval addresses 1 waterbody for excess nutrients, location ID 62-0055-00.

EPA's approval of this TMDL does not extend to those waters that are within Indian Country, as defined in 18 U.S.C. Section 1151. EPA is taking no action to approve or disapprove TMDLs for those waters at this time. EPA, or eligible Indian Tribes, as appropriate, will retain responsibilities under the CWA Section 303(d) for those waters.

