

Guidance for Setting Wasteload Allocations for Regulated Stormwater

Below is a summary of Minnesota Pollution Control Agency (MPCA) guidance for setting Wasteload Allocations (WLAs) for regulated stormwater. This includes construction, Municipal Separate Storm Sewer Systems (MS4), industrial, and individually-permitted stormwater.¹

1. During development of a Total Maximum Daily Load (TMDL), data are generally not available to support identification of specific Best Management Practices (BMPs) for construction stormwater. It is therefore MPCA's preference to utilize the Construction Stormwater General Permit to manage compliance with a TMDL. National Pollutant Discharge Elimination System (NPDES) permitted construction stormwater must be given a WLA for TMDLs where the pollutant/stressor is total suspended solids (TSS) (turbidity), phosphorus (excess nutrients or eutrophication), dissolved oxygen, or biota (plant, fish, or macroinvertebrate). Construction stormwater should be given a single categorical WLA (i.e. one WLA for construction stormwater). However, it is acceptable to include construction stormwater as part of an overall categorical WLA for stormwater when the entire watershed load is from regulated stormwater discharges. The WLA for construction stormwater will typically range from 0.05 to 0.15 percent of the overall TMDL, minus the Margin of Safety. TMDLs that do not prescribe BMPs for construction stormwater should contain the following language in the implementation section of the TMDL report: ***To meet the WLA for construction stormwater, construction stormwater activities are required to meet the conditions of the Construction General Permit under the NPDES program and properly select, install and maintain all BMPs required under the permit, including any applicable additional BMPs required in Appendix A of the Construction General Permit for discharges to impaired waters, or meet local construction stormwater requirements if they are more restrictive than requirements of the State General Permit.***
2. During development of a TMDL, data are generally not available to support identification of specific BMPs for industrial stormwater. It is therefore MPCA's preference to utilize the Industrial Stormwater Multi-sector General Permit to manage compliance with a TMDL. Industrial stormwater must receive a WLA if the pollutant of impairment is part of benchmark monitoring for any industry in the impaired watershed. Data resulting from benchmark monitoring of industrial stormwater discharges cannot be used to establish a separate WLA for industrial stormwater. When effluent limits are established for an industrial sector, that sector may be given a separate WLA consistent with those effluent limits. Industrial stormwater should be given a single categorical WLA (i.e. one WLA for industrial stormwater). However, industrial stormwater may be part of an overall categorical WLA for stormwater when the entire watershed load is from regulated stormwater discharges. TMDLs that do not prescribe additional BMPs for industrial stormwater should contain the following language in the implementation section of the TMDL report: ***To meet the WLA for industrial stormwater, industrial stormwater activities are required to meet the conditions of the industrial stormwater general permit or General Sand and Gravel general permit (MNG49) under the NPDES program and properly select, install and maintain all BMPs required under the permit.***
3. **Municipal (MS4) Stormwater covered under Phase 1 and Phase 2 permits.** Each regulated (permitted) MS4 within a TMDL study area must be given a WLA. In addition to standard expressions of WLA (e.g. pounds/day), the allocation section of the TMDL should include a required reduction (e.g. percent, mass) from a clearly defined baseline (e.g. a year, a specific BMP condition). When data allow, expressing the WLA as a loading rate (e.g. lbs/acre) is encouraged. The TMDL should list the name, permit number and identification for each MS4. This WLA will be categorical or individual. Individual WLAs should be given to each permitted MS4, although categorical WLAs may be preferred or appropriate in certain situations. If a categorical WLA is included in a TMDL report, the report should provide an explanation of the rationale for using a categorical WLA.

¹ Additional information can be found on MPCA's stormwater website (<http://www.pca.state.mn.us/water/stormwater/impairedwaters.html>).

4. **Future Loads.** WLAs for existing regulated MS4 stormwater should consider future loads. Methods for addressing future loads should be consistent with MPCA's Guidance on *What Discharges should be Included in the TMDL Wasteload Allocation for MS4 Stormwater* (<http://www.pca.state.mn.us/water/stormwater/impairedwaters.html>).
5. **Allocations for non-regulated MS4 stormwater.** A TMDL report can address allocations for non-regulated MS4 stormwater in one of three ways. First, the report may assign a categorical Load Allocation (LA) to non-regulated MS4 stormwater and describe a clear procedure for transferring load from the LA to the WLA. A second and preferred approach is to assign individual LAs to all non-regulated MS4s in the watershed. In this situation, the TMDL report should include the following statement: *Individual LAs for a MS4 will be transferred to individual WLAs for MS4s that come under NPDES permit coverage.* A third approach utilizes a combination of approaches 1 and 2. With this approach, individual LAs are provided to some MS4s and a categorical LA is assigned to a group of MS4s. At a minimum, individual LAs should be given to MS4 stormwater that is likely to be covered under a NPDES permit in the future. MPCA's Guidance on *What Discharges should be Included in the TMDL Wasteload Allocation for MS4 Stormwater* (<http://www.pca.state.mn.us/water/stormwater/impairedwaters.html>) provides a list of MS4s that should receive individual allocations.
6. **Hydrologic surrogates.** The MPCA and partners are developing a volume-based approach to stormwater management (Minimal Impact Design Standards). In addition, the MPCA lacks reference streams needed for establishing hydrology-based TMDLs. Therefore, hydrologic surrogates should not be used in place of traditional pollutant loads when setting allocations for stormwater. However, hydrologic information that helps guide stormwater management should be included in TMDL reports, implementation plans, or supporting documents.
7. When data allows, discharges covered under individual permits should be given an individual WLA for each permittee. If a TMDL provides an individual WLA for these discharges, the TMDL should contain specific language about actions that will be required and identify the organization(s) responsible for administering those actions. If a separate WLA is not given to these discharges, then MPCA assumes activity that follows the conditions of the permit meets requirements of the TMDL. If a separate WLA is not given to these discharges, the TMDL should contain the following language: ***“Stormwater activities from individually permitted, non-MS4 NPDES/SDS stormwater discharges that are not given an individual WLA will be considered in compliance with provisions of the TMDL if they follow conditions of the individual permit and implement the appropriate Best Management Practices.”***
8. If pollutant load allocations or modeling assumptions differ for permitted and non-permitted MS4s, the TMDL must clearly state the basis for the difference.