

## NR151 Update

June 28, 2010

The rule passed as proposed in the green sheet package except for the two errata identified below. The rule(s) were generally supported by all stakeholders and while there were some suggested improvements, the board after some discussion approved the rule as presented in the green sheet package and the errata.

The first errata has to do with the size of the watershed within which the MS4s can "trade" to achieve the 40% TSS reduction (See s. NR 151.13 (2) (b) 3. b.) The public hearing draft had a HUC 8 which is equivalent to basins such as the Lower Rock or Upper Chippewa. This was too large. In the green sheet package to the NRB we proposed going to a HUC 12 which is more the size of the priority watersheds or smaller. There was a request to go back to HUC 8 so we have compromised with HUC 10. HUC 10 is equivalent in size to 3 to 10 HUC 12s. You can view the watersheds by HUC on the DNR's surface water data viewer. [http://dnr.wi.gov/org/water/data\\_viewer.htm](http://dnr.wi.gov/org/water/data_viewer.htm)

The second errata corrected a reference to the modeling tool required to calculate the Phosphorus Index. The reference to SNAP-Plus was changed to a reference to the Wisconsin Phosphorus Index. The rule will require use of the Wisconsin Phosphorus Index in effect as of the date the rule is promulgated. In Subchapter III we have locked in a SLAMM and P8 version for the developed urban area performance standard of 40% TSS control, but only in so far as to prevent MS4s from using versions older than the cited versions. They can and will use more current versions when it benefits them (i.e. a new BMP is added).

The next step is to send the rule over to the legislature as soon as possible. They will have the months of July and August to deliberate and possibly hold hearings. I would expect them to hold hearings most likely in late July to early August. If all goes well at the legislature this rule could be finalized as early as November 1, 2010.

P.S. For those following NR 102 and NR 217 changes (the P criteria rule), those rules also passed the NRB at last week's meeting. In addition, the Board did make two resolutions: 1) that the department incorporate the proposed changes to NR 217 into our TMDL implementation methodology and 2) that we immediately convene a stakeholder group to develop a framework for watershed based trading and report back to them on that framework by July, 2011.