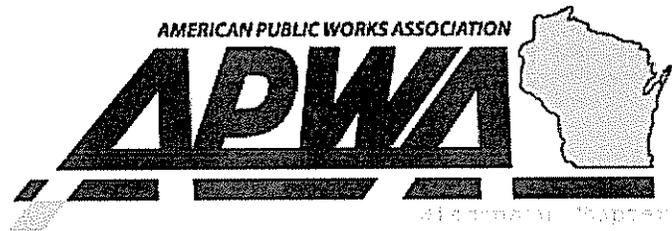


Wisconsin Chapter  
American Public Works Association  
100 State Street  
Beloit, WI. 53511



June 15, 2007

Mr. Scott Hassett  
Secretary  
**WISCONSIN DEPT. OF NATURAL RESOURCES**  
P.O. Box 7921  
Madison, WI 53707-7921

RE: Administrative Code NR-151  
Subchapter III – Non-Agricultural Performance Standards  
Developed Urban Areas

Dear Secretary Hassett:

The Wisconsin Chapter of the American Public Works Association (APWA) recently held a state-wide conference in La Crosse, Wisconsin. A technical session on street sweeping practices generated a great deal of discussion regarding the current requirement for total suspended solids (TSS) reduction in developed urban areas as contained within the Wisconsin Administrative Code § NR 151.13. As you are aware the code currently requires a reduction by 20% of TSS by October 2008 and a 40% reduction by 2013 for "MS4" permitted communities.

Municipalities have been aware of these regulations since they were published in September 2002 and have been taking responsible steps to comply. Most community work toward these goals has been in accordance with the guidance given by the Department and as described in the "Note" following § NR-151.13(2)(b)(1).

Many municipalities have used the "Source Loading and Management Model" (SLAMM) computer simulation for over five (5) years to make equipment purchase decisions and to determine the methods for meeting the TSS reductions. While the Department does not own or require the use of the SLAMM model, it is strongly encouraged and supported by the Department. On March 9, 2007, a new version of the SLAMM model was issued that significantly reduced the credits (reductions) in TSS associated with conventional street sweeping techniques.

At the time the code was drafted, the expectation of the Department was that the 20% goal could be reached by use of traditional methods and that the 40% goal would be attainable with a combination of traditional methods and high efficiency street sweeping or structural best management practices (BMP) retrofits with the potential inclusion of BMPs on privately owned lands. However, review of model results using the revised SLAMM indicates that traditional methods (ex. broom sweeping, catch basin cleaning and management of winter de-icing materials – which receive no credit in SLAMM) will reduce TSS approximately 10-12%. In many instances, only by including newer developments, with modern storm water management practices constructed prior to October 1, 2004, are communities even approaching the 20% reduction to be achieved by October 2008.

The changes to the model, with regard to street sweeping, were based on research completed by the Department, USGS, City of Madison and others. The Public Works Association is not questioning the validity or integrity of the work that generated the revised model. Rather, we question whether the current code is still viable given the significant reductions in the efficacy of street sweeping that have been identified since the code was written. Given the revisions to SLAMM and the significantly different TSS reductions associated with sweeping, it is unclear to many of our members not only how, but also if it is technically possible to meet the requirements of NR-151 in the time set forth and with the funds estimated by the Department.

We direct your attention to the Departments "*Attachment #2 – Fiscal Estimate Worksheet for the Non-Agricultural Performance Standards – October 2001*". Page 12 of this document under "*Assumptions*" states: "Street sweeping, catch basin cleaning and de-icing management is expected to result in a 20% reduction of total suspended solids." Based on many recent evaluations using the revised version of SLAMM this statement is clearly no longer correct.

The revisions to SLAMM have come very late in the regulatory process leaving communities only 18 months to meet the 20% reduction goal. The state imposed levy limits have required many municipalities to reduce their public works expenditures and limited their ability to implement new unfunded mandates. There is virtually no time remaining for many of our members to revise their budgets and action plans to meet the regulations using the revised model.

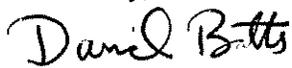
As an organization with over 600 members representing 78 cities, 35 villages, 10 towns, and 12 counties throughout the State of Wisconsin we respectfully request that the Department undertake the following:

- 1) For the 2008 deadline of 20%, allow the use of best practices such as street sweeping, catchbasin cleaning and de-icing management to be considered Maximum Extent Practicable (MEP) for the 20% removal, as was clearly intended by the original legislation. Consider how to credit de-icing practices in SLAMM, as they are currently given no credit. It should be noted that moving away from the use of sand (TSS) as a de-icing agent will lead more communities to use salt which is an environmental concern for other reasons.
- 2) Form a technical advisory committee made up of Department staff, municipal, and consulting engineers to review the 40% requirement both from a technical feasibility perspective and an implementation timeframe requirement. The Wisconsin Chapter members of APWA offer their assistance to participate in a technical evaluation.
- 3) Re-examine the costs associated with meeting the current TSS removal standard given the new knowledge available and update the previously referred to Attachment 2, for use by the technical advisory committee.
- 4) As part of the technical discussion consider replacing TSS as the parameter of concern with Suspended Solids Concentration (SSC). SSC includes pollutants that are more representative of the loads from urban areas than TSS. Consider revising the NURP sediment distribution curve in SLAMM to more accurately represent sediments found in samples being collected in Wisconsin.
- 5) Based on the report provided by the technical advisory committee consider revising both the goal and the timeline associated with the 40% TSS removal rates.

We understand that our concerns and request are late in the regulatory period, however they are only being generated in response to recent changes in pollutant loading results using current models and WDNR guidance. The model revisions are forcing a reexamination of the ability of municipalities in the state to comply with existing regulations. We appreciate the Departments timely review of this matter and look forward to working with you on this issue.

If you wish to discuss the issue in more detail please contact Greg Fries, chair of the Water Resources Committee, at 608-267-1199. Thank you in advance for your consideration.

Sincerely,



David Botts, P.E.  
President  
Wisconsin Chapter - APWA

CC: Roger Bannerman - WDNR  
Russell Rasmussen - WDNR  
Gordon Stevenson - WDNR  
Kevin Kirsch - WDNR