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July 5, 2017

VIA EMAIL
DNRTechnicalStandards@Wisconsin.gov

Mr. Jan Kucher
Water Resources Engineer
WI Department of Natural Resources
P.O. Box 7921
Madison, WI 53707-7921

RE: Comments on Draft Technical Standard 1002 – Site Stormwater Infiltration

Dear Mr. Kucher:

We are submitting comments on behalf of the League of Wisconsin Municipalities with respect to the above-referenced Standard. The League is comprised of 190 cities and 398 villages in Wisconsin. Many of these communities with MS4 responsibilities have formed the Local Government Stormwater Group. This group works with consulting engineers and legal counsel on stormwater regulatory issues throughout the state.

To be clear, our review comments are limited only to the “Step C2” section as applied to existing grass swales. Our primary concern relates to the determination of infiltration under Step C2. Our understanding is that, under the existing standard, communities have the option of determining infiltration rates on vegetated swales based on actual measurements. While that option is retained under the proposed guidance, the proposed guidance also imposes a “correction factor” that reduces the measured effect by a factor of 2 to 4 based on the number of samples taken. See Table 4. The League opposes the application of that factor.

Based on our internal technical review we believe the correction factor to be arbitrary and flawed. The direct result of this factor is to substantially reduce the pollution control value for vegetated swales under certain circumstances. We do not believe this is

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appropriate. At the outset, we are not aware of any support for this kind of “correction” based on actual data.

To the extent there is a concern about number of samples for adequate site characterization that should be addressed in a manner other than an arbitrary discount based on the number of samples. There is already a 50% reduction factor applied to convert from static to dynamic measures. If a site is adequately characterized, there should be no additional “correction.” Moreover, some sites are far more homogeneous than others. If there is a need for additional sampling, it should be based on site-specific conditions. To the extent the concern is about a deeper soil horizon, those concerns should not apply to infiltration of small and mid-size rain events required under NR 151.

Many municipalities use vegetated swales as a cost-effective means of complying with MS4 infiltration requirements. Often such swales can be incorporated as part of road and right-of-way corridors. Encouraging the incorporation of such features allows infiltration to occur over extensive land areas without disrupting urban infrastructure and development. By greatly reducing the credit for such swales, they become far less attractive to install and maintain. Significantly reducing the usefulness of these practices is counterproductive to our efforts to encourage infiltration and MS4 compliance. It also effectively increases the cost of MS4 compliance with no demonstrable benefit.

We would be glad to discuss this with you further. It is important for the many communities throughout Wisconsin that stormwater continue to be managed in a cost-effective manner.

Best regards,

STAFFORD ROSENBAUM LLP



Paul G. Kent

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cc: Curtis A. Witynski, League of Wisconsin Municipalities