



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

DEC 30 2010

REPLY TO THE ATTENTION OF:

WQ-16J

Bruce J. Baker, Administrator
Division of Water
Wisconsin Department of Natural Resources
P.O. Box 7921
Madison, Wisconsin 53707-7921

Dear Mr. Baker:

On December 14, 2010, U.S. Environmental Protection Agency received a submittal by the Wisconsin Department of Natural Resources (WDNR) for new water quality standards for phosphorus for review and approval under section 303(c) of the Clean Water Act (CWA). On December 29, 2010, EPA received a certification statement of the new standards by the Wisconsin Attorney General, thereby completing the submittal package. The new standards submitted by WDNR that fall under the purview of section 303(c) are at NR 102, Water Quality Standards for Wisconsin Surface Waters (specifically at NR 102.06, Phosphorus), and NR 217.19, Variances for Stabilization Ponds and Lagoon Systems. The following text from s. NR 217.17(1)(a) also falls under the purview of section 303(c): "... the department may provide a schedule of compliance for a water quality-based phosphorus effluent limitation ..."

Consistent with section 303(c) of the CWA and federal regulations at 40 CFR 131.21, EPA is required to review and approve, or disapprove, new or revised state water quality standards. EPA has reviewed the new water quality standards identified above and the information submitted by WDNR in support of these standards and hereby approves the new and revised standards pursuant to section 303(c) of the CWA and federal regulations at 40 CFR 131.21.

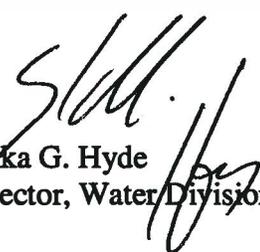
WDNR's submittal includes numeric phosphorus water quality criteria for flowing waters (rivers and streams) and lakes and reservoirs, including criteria for the portion of the Great Lakes in Wisconsin. The rivers and streams criteria apply to all flowing waters except for ephemeral streams or streams identified in ch. NR 104 as limited aquatic life waters. The lakes and reservoirs criteria apply to all lakes and reservoirs except for marsh lakes and other wetlands. The Great Lakes criteria consist of criteria for the open waters of Lake Superior, the open waters of Lake Michigan, and the nearshore waters of Lake Michigan and Green Bay in Lake Michigan, which is covered by a separate narrative criterion at NR 102.06(5)(c). WDNR adopted a companion NPDES rule under s. NR 217, Subchapter III, "Water Quality Based Effluent Limits for Phosphorus," for determining when a water quality based effluent limitation (WQBEL) is needed in a WPDES permit and how such a WQBEL is to be calculated. EPA intends to review

that rule as a possible revision to Wisconsin's approved NPDES program under 40 C.F.R. § 123.62. We will contact you when we have completed that review.

Consistent with section 7 of the Endangered Species Act (ESA) and federal regulations at 50 CFR Part 402, EPA is required to consult with U.S. Fish and Wildlife Service (FWS) on any action that may affect federally-listed threatened and endangered species. To date, EPA has initiated, but not completed, consultation with FWS on the new or revised rules approved above. EPA has determined that this approval action does not violate section 7(d) of the ESA, which prohibits irreversible or irretrievable commitments of resources that have the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives.

Congratulations on this significant environmental accomplishment in helping to protect Wisconsin's waters. If your staff has any questions regarding this approval, please have them contact Brian Thompson of my staff at (312) 353-6066 or via email at thompson.brian@epa.gov.

Sincerely,



Tinka G. Hyde
Director, Water Division

cc: Jim Baumann, WDNR
Joel Trick, USFWS