

Table 1. Advantages and disadvantages of options for linear project standards from February 8, 2023 memo to Commission with TAC input (March 1 and March 29, 2023 meetings)

For all options, cities and other MS4 permit holders are required to meet the MS4 permit requirements for linear standards. May result in cities and other MS4 permit holders installing more water quality BMPs compared to projects constructed before 2020 MS4 permit adoption.

Option #	Description	Advantages	Disadvantages	Comments
1	Remove the triggers and water quality standards for linear projects from the BCWMC's Requirements document, but leave in place the triggers and erosion and sediment control and rate control standards for linear projects. In this scenario, the cities and other MS4 permit holders would need to meet the MPCA's 2020 MS4 permit requirements, which should mean implementation of more water quality improvement measures on linear projects than occurred before the new MS4 permit. This would also mean no BCWMC reviews of linear projects for water quality.	<ul style="list-style-type: none"> No overlapping regulatory requirements for water quality treatment and runoff rate. Assists cities in multiple watersheds by reducing overlapping regulation Streamlined and faster process for cities and other applicants. Potential to allow cities to spend more time and money on other stormwater management improvements Provides some clarity and consistency for all cities Acknowledges that site conditions and other factors vary among cities 	<ul style="list-style-type: none"> Flexible language in MS4 permit means no <u>required</u> state-minimum amount of water quality treatment provided by linear projects. Potential inconsistencies among city requirements and processes related to water quality treatment and rate control for linear projects 	Functions like other state-mandated regulations that are implemented and enforced through local programs (e.g., the MN Wetland Conservation Act). However, the MS4 Permit also requires reapplying for permit every 5-7 years, audits resulting in fines and other consequences, and potential for third-party lawsuits if requirements are not followed.
2	Do nothing— leave the BCWMC's current triggers and water quality and rate control standards for linear projects in place. As in option 1 above, the cities and other MS4 permit holders would need to meet the MS4 permit requirements, but applicants would also need to meet the BCWMC requirements when linear projects trigger the requirements.	<ul style="list-style-type: none"> Familiar – BCWMC and the cities know how this works. Provides a “minimum” standard that applicants must meet when projects trigger BCWMC standards. 	<ul style="list-style-type: none"> Very few projects trigger the BCWMC standards (only one project since 2017). Some overlap of regulatory requirements for water quality treatment and runoff rate, plus slightly different standards (e.g., capture and retain 1.1 inches versus 1.0 inches of runoff). Likely to pose challenges for cities in multiple watersheds, if they each have different linear standards. Would lengthen permitting timeline as compared to Option #1 	Functions like other state-mandated regulations that are implemented and enforced through local programs (e.g., the MN Wetland Conservation Act). BCWMC standards include flexible treatment options (FTOs) – these would remain in place.
3	Adopt the MPCA's 2020 MS4 permit standards for linear projects. Due to the flexible language in the MS4 permit, for this option we recommend that the Commission add guidance to their requirements to help define currently nebulous terms and add a level of fairness and unambiguity to the BCWMC project reviews. If such guidance tools or documents are not developed by others, such as the Minnesota Cities Stormwater Coalition, then the BCWMC could consider developing tools specifically for BCWMC. Guidance tools could be checklists, worksheets, or forms for use by cities (and other applicants) to ensure consistent implementation and documentation.	<ul style="list-style-type: none"> Keeps BCWMC rules updated and consistent with state requirements Provides guidance and level of consistency between cities for BCWMC project reviews. Provides cities with additional resources to help achieve MS4 and BCWMC compliance Also regulates state, county, and other entities proposing linear projects 	<ul style="list-style-type: none"> Overlapping regulatory requirements for water quality treatment. Requires guidance tools for project reviews. BCWMC may need to prepare or revise guidance tools, depending on what tools are developed by others. More complicated and time consuming, project reviews for BCWMC Engineer. More costly project reviews for the BCWMC and member cities. Point of diminishing returns Likely to pose challenges for cities in multiple watersheds, if they each have different linear standards. 	Assume BCWMC's flexible treatment options (FTOs), or something similar, remain in place.

Option #	Description	Advantages	Disadvantages	Comments
4	Same as option 3, plus add a minimum standard to the BCWMC requirements for linear projects, which could be the BCWMC's existing standards or could be something different. Could consider having higher standards in targeted watersheds. Triggers for this option would be the triggers in the MS4 permit.	Same as option 3, plus: <ul style="list-style-type: none"> Provides a "minimum" standard that applicants must meet when projects trigger BCWMC standards. 	Same as option 3, plus: <ul style="list-style-type: none"> Cities may have difficulty meeting this requirement, even with FTOs in place, which could result in them not constructing projects. 	Assume BCWMC's flexible treatment options (FTOs), or something similar, remain in place.
5	Adopt linear project standards that are completely different from MS4 standards that strike a balance between the former (2015) and current BCWMC standards. Could consider having higher standards in targeted watersheds.	Same as option 4	<ul style="list-style-type: none"> Overlapping regulatory requirements for water quality treatment. Cities may have difficulty meeting this requirement, even with FTOs in place, which could result in them not constructing projects. May pose challenges for cities in multiple watersheds, if they each have different linear standards 	Assume flexible treatment options (FTOs), or something similar, remain in place.

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