

**2008-2011 TRIENNIAL STANDARD REVIEW (TSR)
RESPONSES TO PUBLIC COMMENTS ON
PROPOSED PRIORITIZED LIST OF SURFACE WATER QUALITY STANDARDS TOPICS**

This document provides public responses received as part of the WDNR's Triennial Standard Review process for 2008-2011. It includes a tally of the votes received via WDNR's online public ranking survey, and lists public comments along with DNR's responses to these comments.

**PUBLIC RANKING SCORES* FOR EACH TSR TOPIC
(Shown with WDNR's final groupings)**

DNR's Final Grouping**	TSR Topic	Number of votes -Public			
		Grand Total	P1	P2	P3
Addressed in Groups A & C	Blue-Green Algae Reduction	34	23	8	3
C	Applicability of standards to nonpoint sources & stormwater	28	11	13	4
C	Impaired Waters (303(d)) Listing Criteria	13	4	5	4
C	Outstanding & Exceptional Resource Waters - Implementation	9	3	1	5
D	Bacteria Water Quality Standards	8	4	3	1
D	Whole Effluent Toxicity (WET)	7		4	3
E	Dissolved Oxygen Water Quality Criteria	6	1	1	4
E	Nitrogen Water Quality Criterion	6	2	2	2
E	Biocriteria	5	1	2	2
E	Pesticide Water Quality Criteria	5		2	3
E	Turbidity Water Quality Standard	4	2		2
E	Wasteload allocations for WI & Fox Rivers	4		1	3
E	5/10 Biochemical Oxygen Demand (BOD) Policy	3	1	1	1
E	Implementation of narrative standards	3	2		1
E	Methylmercury Water Quality Standard	3		2	1
C	Revisions to chlorides implementation rules	3		2	1
C	Use Attainability Analysis (UAA)	2	1	1	
C	Use Designations - Implementation	2	1	1	
C	Exemption for certain substances (NR 106.10)	1		1	
E	General review of variances in NR 104	1			1
	Other topics not on the proposed list	12	4	5	3

* The scores shown here are combined scores of all votes listing these items as Priority 1, 2, or 3 from each respondent. The top scores in each column are highlighted in blue. It is important to note that the comment letters received were included in these rankings where three top priorities were indicated; however the priorities submitted from Midwest Environmental Advocates (also representing River Alliance of WI, Clean WI, and Friends of Milwaukee's Rivers) were not submitted in a format that allowed them to be tallied with the numeric ranking.

****Grouping System for TSR:**

- Group A:** Topics for which standards revision/development is already underway
- Group B:** Topics which WDNR has already committed to addressing in the upcoming cycle
- Group C:** Proposed priorities for revision/development during 2008-2011 (as resources allow after completing Groups A & B)
- Group D:** Topics that may be priorities but have specific barriers to addressing them during 2008-2011
- Group E:** Topics that are not priorities for the upcoming cycle (will be re-evaluated in 2012)

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PUBLIC COMMENTS & RESPONSES

The public comments documented here were provided through both the online survey and also by letters (attached). Survey respondents were asked to rank their top three priority topics, and to explain why each of these topics was a priority for them. The public comments and responses are presented below in two sections: *A) Topic-Specific Comments*, and *B) General Comments*. The comments received by letter from Midwest Environmental Advocates were addresses separately in section *C) Response to comment letter from Midwest Environmental Advocates*. In section A, the topics are arranged according to the total number of votes received for each topic. The final priority topics to be addressed in 2008-2011 are marked with an asterisk (*). Finally, the list of people and organizations that provided comments is available in section D.

A) Topic-Specific Comments

Blue-Green Algal Toxin Water Quality Criteria (31 comments, 34 votes)

- Affects humans and pets.
- Algae when dead decays and eats up oxygen and creates phosphorus.
- Because for the majority of June through Sep. I can not go into the water outside my home on Tainter Lake. I want my children and grandchildren to be able to use the lake without worrying about their health and safety. The slime and smell is so bad we can't even boat or fish in the lake.
- If you don't start measuring the economic impact of this problem and get the attention of the politicians, We'll be wondering why the DNR hasn't done anything about the "Green Water that killed Tourism"!
- Because we can't live with it in our marina. The smell is unbearable and nothing can survive in it. It is very hard on my boats cooling system too.
- Blue green algal toxin surface water quality is very important. I live near Lake Menomin. The blue green algae is not just a nuisance. It is a health hazard. Residents of the area have difficulty breathing, severe headaches and flu-like symptoms when the algae blooms. There is no way of escaping the fumes, even in a house that has all its windows closed. This year bales of barley were placed along the bays. That has helped minimally.
- Blue-Green Algal growth is prevalent on Largon Lake and we don't seem to be able to get enough attention to the problem, how to reduce it, and actions we can take.
- Every year earlier and earlier we get a green scum covering the water. It's not fit to fish or swim in.
- Gross to look at and smell, deadly to pets.
- I did a visual survey of 14 lakes and Rivers within a 60 mile radius from the confluence of the Chippewa and Flambeau Rivers. The increase in Algal Toxin has more than tripled within the past 15 years. One can no longer swim (nor would want to) in this toxic environment. New owners of waterfront property businesses and homeowners are oblivious of the need to maintain clean water standards. They feel that "their little bit of waste products" will not hurt anything.
- I live on the Chetek chain of lakes and the green algal smells and makes our lake not fun to swim in you come out green. And along our shore you could not even get in because the green slime is so thick. If this is toxic how could we be eating the fish?
- I think that this is a widespread issue in the lakes of Northern Wisconsin. It is capable of making our lakes unsuitable for swimming and other water activities during a part of the summer most years. Much more research is necessary to eradicate this problem.
- The airborne toxins that are present at some times, cause life-threatening asthmatic responses in me. The state did not protect me by requiring disclosure of the risks or that I was even purchasing a retirement home on impaired waters. It is time the state clearly state the risks involved. In the

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past year, I have seen over 10 children under the age of 5 playing in the green slime with parents and grandparents in attendance. The general population does not understand the risks to people living on the water and those inland from airborne and waterborne toxins.

- The Blue-green algae in Tainter/Menomoin Lakes (Dunn County) is so bad. I have heard that it is actually cyanobacteria and is toxic to humans and pets. There are people swimming and skiing and eating fish in these lakes. Why aren't the lakes posted that it is harmful to swim in these waters. When it starts to smell, we can hardly go outside. We have also been bothered by respiratory illnesses and wonder if it is from the lake water.
- The blue-green algae problem continues to worsen in many Wisconsin lakes and rivers. It is potentially a disaster for users of these water resources and to the fish and aquatic species that inhabit them.
- The impact to lake health (i.e. plant and fish) and the potential human health hazards if using the lake.
- The lake that we live on has a very high level of blue-green algae and we want to clean it up.
- The lakes in Central Wisconsin are pathetic. Lake Petenwell and Castle Rock are our main source of revenue for the area businesses and people. Both of these lake are so bad that people are selling there properties because of the condition of the lakes. You need to do something now -not in 3 years. The farm fields and paper mills have made these 2 lakes a swamp.
- The smell and the look of it all is awful! Have had friends who fallen into the water while water skiing and have had to have medical treatment, because of the contains in the water! Please take a good look at this problem. It affects the areas economy is so many ways. People don't want to come back.
- To improve the recreational and fishing opportunities on Lake Petenwell.
- We bought a house on Lake Petenwell in June 2008 hoping to have a place to enjoy water activities with our children and family. Six weeks later the water became so thick with green algae to the point where it looks like the water is paint. The smell is like sewage and is so bad that we cannot even sit on our deck without feeling ill or open the windows to the house to allow fresh air in. We can smell the lake from the road it is so strong. I cannot imagine what the local water-related businesses do to overcome this setback. I've learned since purchasing this home that this happens every single year.
- We recently (6/08) purchased a home on Petenwell and 2 weeks after the close til now, the lake has gotten progressively worse. The lake, on the eastside, looks like paint. The odor is very unpleasant.
- Again, beaches and associated tourism are affected by this issue. It is not enough to simply say that we need to do a better job controlling nutrients.
- Once again, high nutrients in the water are making our recreational lakes unsafe.
- The Chetek chain is noted for blue-green Algal.
- The water in our lake looks terrible, who wants to come to a lake that is soooo green?
- There have been reported cases of animals dying from toxins in Minnesota waters that have extreme amounts of algae toxin.
- To improve the recreational and fishing opportunities on Lake Petenwell.
- High concentrations of blue-green algae often deter or prohibit local residents and recreational tourists from utilizing the Petenwell and Castle Rock Flowages. The "pea-green soup" or "green paint" appearance and stench caused by these algal blooms are often enough to dissuade many residents from swimming or boating in the Flowages, which limits the recreational and aesthetic benefits of lakefront property, and negatively impacts businesses situated along, or reliant upon, these waterways. High concentrations of blue-green algae also pose a health threat to individuals recreating in and on the Petenwell and Castle Rock Flowages. Skin contact with blue-green algae

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toxins can cause itchy eyes and throat, skin rashes, and hives on humans. Ingestion of blue-green algae toxins cause a wide variety of unpleasant illnesses and severe health problems in humans (especially children), including stomach cramps, vomiting, diarrhea, fever, headache, severe muscle or joint pain, and seizures or convulsions. Animals, such as family pets, that ingest blue green algae may experience severe illness or die. We recommend the DNR set and enforce water quality standards for blue-green algae toxin surface water quality criteria to protect human health and recreation.

- Just good for the environment.
- We don't know much about BG-algae. With global warming and phosphorus loading, more waterbodies could become unsafe and unusable.

Summary of the comments above: Respondents expressed major concerns about blue-green algal blooms and related negative impacts on health (human and animals), aquatic environment (e.g. water quality, fish population), and recreational and economic activities.

Response: The reduction of blue-green algae (BGA) in our waterways is a high priority for the Department, and is being addressed through both the current effort to establish *Phosphorus Water Quality Criteria* and one of the identified priorities for this TSR cycle, *Applying Standards to Nonpoint Sources and Stormwater*. These efforts will address the root causes of BGA in our waterways and are the best course of action to achieve BGA reductions.

When the Department's draft list was first published, this topic was initially listed as *Blue-Green Algal Toxin Water Quality Criteria*. However, review of the public's specific comments suggests that the public's real concern is the need to *reduce BGA* (and its associated effects, including health impacts) in our waterways—something that the creation of criteria for BGA toxin will not effectively address. Therefore, while the Department *does* plan to focus on root causes to reduce BGA, the Department does not recommend creation of water quality criteria for BGA toxins at this time, because establishment of criteria will not address the problem causing nuisance algal blooms and will do little to effectively protect public health. Although toxin criteria would set public health threshold levels for algal toxins in water, implementation efforts associated with toxin criteria would be severely limited for several reasons:

- There is extremely high variability in BGA toxin production—BGA can produce toxins all the time, none of the time, or for a few minutes or hours in a day. Once produced, the toxin is very transitory in the environment. Designing a sampling strategy to effectively address this variability is infeasible and impractical.
- The cost of testing would be so high that most local health departments would be unable to effectively manage such a program.
- The value of testing is complicated by testing limitations and delayed result times. Some on-site rapid assays are available, but their validity and accuracy is debatable. Lab-based tests are extremely accurate but the results are not available until up to a week later—too late to be of use to the public.
- Having algal toxin criteria will not result in any effective enforcement actions similar to those used in the regulation of point sources, because it is produced naturally and there is no 'entity' to regulate.
- The best health advice for the public is to educate people to stay out of the water if there is a visible algae bloom. The DNR does maintain a website (<http://dnr.wi.gov/lakes/bluegreenalgae/>) that addresses frequently asked questions on BGA, but more intensive education efforts may be needed.

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Applicability of standards to nonpoint sources & stormwater * (24 comments, 28 votes)

- Although stormwater regulations have been established, their scope is minimal as they typically apply to new development only. Stricter standards need to be applied evenly across the board on all non-point sources.
- Directly linked to the work I do.
- I feel that nonpoint pollution is having a huge impact on water quality and needs to be studied and regulated.
- Non point sources and runoff are affecting the water quality of Long Lake and encourage invasive species to grow.
- Nonpoint source are often the most important source of excess nutrients and other pollutants to our surface water and groundwater. We must find a way to control this diffuse source of pollution if we want to manage the quality of Wisconsin waters.
- Non-point source pollution has largely been ignored due to the fact that it is difficult to identify a specific source. Current standards do not allow for more stringent standards in order to protect water quality in TMDL watersheds. Many of the sources of pollution in Wisconsin are no longer from point sources and in some watersheds nonpoint pollution provides the largest contribution of pollution to surface water. We need stronger rules in those watersheds where the controlling of point source pollution alone has not provided the desired improvement in water quality. Those stronger rules must address the nonpoint pollution contribution in those watersheds.
- Stream water quality is most impacted by nonpoint sources and regulations do not tie water quality to regulations controlling nonpoint sources.
- This is where we can make an immediate difference in water quality and educating the community.
- Walworth County has issues in a large number of communities with storm water runoff management. Locally in the Town of Delavan this issue is causing adverse issues relating to property damage and well water contamination within several portions of the town. Public health has been affected and put a number of residents into the hospital. Local town government is unwilling to join other local, county, regional, and state government entities in seeking adequate measures and remedies.
- We can gain the most environmental benefit for the lowest cost by addressing these sources of pollution.
- Current laws do a good job of addressing and controlling the discharge of contaminants such as nutrients, oxygen demanding substances and bacteria from point sources/wastewater treatment plants. There is less effective control of these same contaminants from nonpoint sources and stormwater. For the effective management of our water resources, gaining better control over nonpoint/stormwater sources of nutrient loading to our waters will be required in many cases to complete the restoration efforts initiated through point source controls.
- I believe that rules and regulations should be change to monitor the effect and to be able to improve the standard of the water.
- Nonpoint and stormwater discharge are some of our big contributors to degrading water quality and need to be addressed.
- Nonpoint sources are responsible for over 80% of the problem seen in our impaired waters...why wouldn't this be considered a priority?
- pollution
- Standards for nutrients and TSS are essential statewide to protect waterbodies and downstream resources such as the Gulf of Mexico. Not only having standards, but regulation behind them to

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enforce, distribute fines, and do what is necessary to protect Wisconsin waterbodies. Nonpoint source pollution is the primary source of degraded habitat and water quality in WI.

- Storm water run-off has substantial negative effects on many urban natural areas and water bodies.
- The point sources are 'ratcheted' down comparatively large compared to nonpoint sources (e.g. farmers)...more conservation farming practices should be encouraged/required along with requiring more BMPs for stormwater runoff.
- There should certainly be better controls on people that are still using outdated, leaking septic systems close to the lake. I also have seen the septic pumper dumping on the farmers fields in the primary ground water recharge area. I think this should be stopped.
- These issues relate directly to my number one priority, reduction of algae in Wisconsin waters.
- To better determine areas of priority.
- I think the DNR needs to put dye in the septic systems along the lake and some how the water system and see who is pumping into the lake. I think you will be surprised.
- Stop all of the garbage from being dumped in Lake Petenwell and Castle Rock Lake. The farmers-towns-and paper mills along with the DNR need to change the direction and now.
- In Wisconsin there currently exists a serious disconnect between the water quality standards designed to protect the health of our waters and the application of those standards to nonpoint sources, most notably agricultural runoff and urban stormwater. We understand that DNR is currently updating the administrative code NR 151. We urge WDNR to proceed expeditiously in bringing these rules forward for public review and eventual approval by the NRB. A protracted review process only delays concerted action to reduce non-point runoff from rural lands and urban areas.

Response: The Department understands the concerns raised above regarding the need for more stringent regulation and control of nonpoint source pollution directed to Wisconsin's waterways. This topic is a high priority for EPA and the Department, and was ranked second by the public. For these reasons, this topic was included in the prioritized list for this cycle (2008-2011). Moreover, moving forward with the *Applicability of standards to nonpoint sources & stormwater* will address blue-green algae issues, which was ranked as the top priority for the public.

Impaired Waters (303(d)) Listing Criteria * (10 comments, 13 votes)

- I live on the Chetek Chain which has been on the impaired list for years and I don't see anything being done by the DNR or county.
- Impaired Waters Listing Criteria is a high priority in my mind, because it requires have criteria in place to assess the waters. I feel it interweaves between Use Designations and Use Attainability Analyses, as well as provides documentation to support the opposite end of the spectrum- Outstanding and Exceptional Resources Waters. Listing waters as impaired is the first step in identifying issues that surround waters in Wisconsin, and leads towards watershed planning and TMDLs and implementation.
- Seems until Wilkinson's Slough is listed as an impaired water, nothing will be done to fix it. Presently the algae, milfoil, and other plants continue to grow making the Slough un-swimmable and very difficult to navigate in a boat. The growth constantly clogs engines causing people to advance 10', retreat 8', and then repeat the process. Urgently needs attention.
- It is very important that there is a consistent process of determining which waterbodies are in trouble and why. This will allow DNR to effectively allocate resources to restore these waterbodies.
- Directly linked to the work I do.
- This follows from the first priority and establishes a method of identifying waters as impaired and bringing them to public attention. It sets a point at which things are no longer acceptable.

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- We need to take care of our water resources and be on top of the many ways in which we as users impair our water resources and find solutions.
- Improving water quality by designating waters helps provide monies when available and puts them on a priority list that gets reviewed, a listing criteria is necessary to document this process.
- let's get it cleaned up.
- There needs to be a way to consistently interpret results vs. water quality criteria, so we'll know not only what is impaired but also how we can gage progress towards meeting the criteria in terms of magnitude of exceedance and frequency. Also, how to deal with deciding on listings for phosphorus when there's no published water quality criterion.

Response: The development of the *Impaired Waters (303(d)) Listing Criteria* appears to be a high priority for the public (ranked third in the public ranking process). The Department agrees that decision-making guidelines for impaired waters listing are highly needed to increase consistency in the lake, stream and river assessment process when deciding if a waterbody is impaired or not. Moreover, per U.S. EPA's recommendations, the development of the *Impaired Waters (303(d)) Listing Criteria* can be addressed simultaneously along with the *Use Attainability Analyses (UAA)*, and the implementation of both the *Outstanding & Exceptional Resource Waters* process and *Use Designations*, since all of these topics are interrelated. For these reasons, this topic was added to the prioritized list of topics for the 2008-2011 cycle.

Outstanding & Exceptional Resource Waters – Implementation * (7 comments, 9 votes)

- It is easier and more cost effective to protect a high quality resource than to restore it once it has been degraded.
- These waters should be designated along with the appropriate standards/restrictions to ensure their public value maintains its' integrity.
- Waters designated outstanding or exceptional have high quality reasons for those designations and should be a high priority.
- Our lake gets extremely green. Need to control how green it gets by limiting runoff (phosphorus) and algae growth
- Additional revisions must be done to shoreland zoning across the state to ensure that our most pristine waterways do not face increasing development pressures. Identify these resources and protect them by increasing existing standards.
- Again it will be important to have a consistent process in place for how to determine high quality waterbodies so that they are given adequate protection.
- Directly linked to the work I do.

Response: The implementation of the *Outstanding & Exceptional Resource Waters (OERW)* process will be needed in order to fully protect these high quality waters, once the update of the process itself is completed. The Department acknowledges that protecting the designated OERW must be a priority, and included the implementation of the OERW process as a priority for the 2008-2011 cycle. The Department envisions moving forward with the implementation of the OERW process concurrently with, or following, *Use Designation Implementation*, as recommended by the U.S. EPA.

Bacteria Water Quality Standards (7 comments, 8 votes)

- Beaches are continually closed due to high concentrations of bacteria and yet the state still does not have a clear plan for assessing these waters.
- I swim in the lake and so do my grandchildren.

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- Local and tourists use the lake for recreational fishing, swimming, boating, etc. Water with high bacterial count can be extremely detrimental to humans and animals.
- Too many food poisoning cases with *E. coli* have been taking place and transmittance of *E. coli* in irrigation systems and manure handling have become a greater issue. Fecal coliform testing is too vague to limit *E. coli* problems in water and plant systems.
- Bacteria can originate from many sources. These sources can be point or nonpoint. The largest nonpoint sources of bacteria are runoff septic systems and improperly managed barnyards and manure storages. Many lakes and rivers experience high levels of bacteria at some or all times of the year. Without defensible standards, it is next to impossible to require management changes due to the lack of scientifically based criteria.
- Delavan Lake has non source point pollution issues that are not being met by the local Town of Delavan government. Their insistence in not joining efforts with the Delavan Lake Sanitary District and Walworth County are creating difficult circumstances for Town of Delavan residents to address these concerning issues.
- The impact to lake health (i.e. plant and fish) and the potential human health hazards if using the lake.

Response: The U.S. EPA is currently re-evaluating what should be used as a defensible pathogen indicator species that will be reliable in protecting public health; they expect to promulgate rules on bacteria in 2012. If the Department were to enact separate bacteria standards before 2012, this would result in conflicting regulations and the rulemaking process would need to be repeated. It could also result in permittees having to upgrade their systems multiple times to comply with changing regulations. For this reason, this topic was not added to the prioritized list for this ongoing cycle even though the Department acknowledges that this is an important issue.

Whole Effluent Toxicity (WET) (7 comments, 7 votes)

- I swim in the lake and so do my grandchildren.
- Related to number one above. Anything that adds to the nutrients will affect the health of our water system.
- This is in conjunction with priority one. I have had bacteria tests taken (at the Colfax test station) showing that the bacteria from each river far exceeds drinking and general safety standards. I highly recommend that the State Dept. or a university environment class test both rivers, starting at their headwaters and testing every 1,000 feet of shoreline water. This will locate those places that are polluting the water with waste products rather than putting in a septic system. (This would make an excellent doctoral or masters degree study.) THIS NEEDS TO BE DONE IMMEDIATELY.
- We need to get rid of the bad stuff.
- Don't dump waste where it can seep into the ground water recharge areas. We need to better protect our groundwater.
- In order to return our waters to clarity, we must control the waters that enter the watershed. The state of Wisconsin cannot afford to continue to ignore national and international standards. We must work with WHO and CDC in order to reduce the toxins and nutrients that enter our watersheds. Recent economic analysis proved a 60% increase in property values if the same homes were located on clear waters instead of impaired waters. The overall economic effect is \$73.6 million dollars in values of homes on over 100,000 surface acres of water if the water were clear. We cannot neglect the economic advantages of controlling and monitoring the substances that flow into our streams and create an impact throughout the southern tier of states.
- This is one of the most unpleasant and dangerous attacks on our fresh water supply and must be studied and dealt with by all of us.

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Response: The Department understands concerns raised in the public comments regarding *Whole Effluent Toxicity*. However, WDNR and U.S.EPA disagree on whether a rule revision is needed to change how 'reasonable potential' for toxicity is determined. WDNR would prefer to focus on WET investigations rather than on setting additional WET limits required by EPA's proposed revisions (note: EPA's regulations only apply to Great Lakes dischargers). For this reason, the Department decided to class this topic as not a priority for addressing in the 2008-2011 cycle.

Revisions to chlorides implementation rules * (3 comments, 3 votes)

- Chloride limitations have certainly impacted many food processing operations in the state and current regulations should be revised to be more effective in source reduction, if possible.
- With the advent of home water softening systems and the prevalence of salting roads in the winter, this is the largest pollutant source which is not adequately addressed in current water quality standards.
- Our effluent chloride concentrations are increasing, and we need a rule that we can work with to achieve the best possible results.

Response: Although *Revisions to Chlorides Rules* was identified as a lower priority topic by the public, it was selected as a priority for this cycle because a draft of revised guidance on this item is almost complete, and should be finalized with relatively little additional work.

Use Attainability Analysis (UAA) * (1 comment, 2 votes)

- This topic, along with the other topics in Group C [*Impaired Waters 303(d) Listing Criteria, Outstanding & Exceptional Resource Waters– Implementation, Use Designations–Implementation*] are important tools for addressing water quality on a watershed basis. As indicated, all of these topics should be addressed simultaneously.

Response: The Department strongly believes that the development of guidance for *Use Attainability Analysis* must move forward even though this topic was not ranked as a priority by the public. The Department feels that *Use Attainability Analyses* and *Implementation of Use Designations* go hand-in-hand with other process-based revisions that are already underway, and that these items should be addressed as a group. This is in accordance with EPA's suggested approach of grouping similar topics. Whether or not to designate this group of topics as a priority can be framed as a question of whether 'process-based' topics or 'standards-based' topics are more critical at this time. The Department maintains that the process-based topics must be completed and implemented at this time in order to appropriately implement the water quality standards that are currently in code, rather than focusing on creating new standards. In DNR's Water Quality Standards Strategic Plan, it was made clear that no new standards would be brought to the Natural Resources Board without implementation plans. The process-based topics are necessary to put the structure in place for implementation of these water quality standards. The Department feels strongly that clearly defining and implementing these aspects of our process are critical to successful operation of our Water Quality Standards program.

Use Designations – Implementation * (1 comment, 2 votes)

- This is where we need to start. There must be a system to classify waters according to intended use and protection needed. One size does not fit all.

Response: The Department acknowledges the need to move forward with *Implementation of Use Designations* once the effort currently underway to update the Use Designation process is completed. Addressing this topic is seen as being the primary building block needed for *Impaired Waters Listing*

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Criteria, Outstanding/Exceptional Resource Waters, and Use Attainability Analyses. (See also response above for Use Attainability Analysis).

Exemption for certain substances (NR 106.10) * (2 comments, 1 vote)

- As you indicated to us in a letter from Russ Rasmussen dated April 30, 2008, DNR has delayed the issuance of at least one water pollution permit because the EPA has indicated that it will object to the DNR's use of the exemption for non-contact cooling water found in NR 106.10. The PACRS are negatively impacted by DNR's delay in issuing this permit because the permit contains more stringent limits on the facility's discharge of phosphorus than the facility's expired permit. According to the triennial standards review documents, EPA has identified this provision as inconsistent with federal regulations and DNR must modify or remove this provision from state rules to overcome EPA's objections. Yet despite DNR's clear recognition that this provision has caused delay in issuing water pollution permits and the only way to prevent this delay is to modify or remove the rule, DNR does not propose to remove this rule during the next three year period. Until DNR takes action to remove this provision, the possibility that future water pollution permits will be delayed remains. Further, removal of this provision is a technical change necessary to ensure Wisconsin complies with the Clean Water Act. We urge DNR to prioritize removal of the NR 106.10 exemption for the upcoming 2008-2011 triennial review.
- (see also the comment letter from Midwest Environmental Advocates attached)

Response: In response to public comments, this topic was added to the prioritized list for this cycle. Addressing this topic should be feasible in this cycle with relatively little work and by working closely with the U.S. EPA. The U.S. EPA has indicated that this section of our Administrative Rules is inconsistent with federal law. At their discretion, U.S. EPA may object to the issuance of WPDES permits if DNR applies s. NR 106.10 as written. In fact, U.S. EPA currently has formally objected to the issuance of WPDES permits for Mosinee Paper and Domtar Paper – Rothschild. Modification of this rule is necessary to address U.S. EPA's objections. Leaving it unchanged may result in additional objections and a growing permit backlog.

All the following topics were not ranked as a high priority either by the public or the DNR and placed in the group of topics that are not a priority for addressing in the 2008-2011 cycle.

Nitrogen Water Quality Criterion (6 comments, 6 votes)

- The high nitrogen is causing too many nutrients for our lake. This creates duckweed and algae issues.
- With action to address phosphorus in natural waters, the remaining plant nutrient that often spurs the nuisance growths of aquatic plants and algae is nitrogen. This nutrient is also of major concern in the anoxia being experienced in the Gulf of Mexico--which is an issue of global concern.
- This title should be nutrient water quality criteria. This topic seems to be the one that most effects usage of water bodies in our state. There are areas where removal of nutrients could lead to improved water quality.
- Three general groups of topics for prioritization were identified: Group C topics were identified as those to be addressed in the 2008 to 2011 cycle as resources allow. Group D topics were identified as those that the Department is not currently able to address due to specific barriers. Group E topics were identified as those that are not a priority for addressing in the 2008-2011 cycle. It is our opinion that it would be beneficial to delay addressing several of the Group C topics until after several of the Group E topics have been addressed and implemented. Specifically, we suggest that prior to addressing the implementation of use designations, the development of impaired water 303(d) listing and delisting criteria, the development of use attainability analysis, and the

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implementation of a revised process for designating outstanding and exceptional resource water (currently in Group C), the Department develop and implement surface water criteria for nitrogen and suspended solids and biocriteria for surface water quality (currently in Group E). Development of these three Group E standards prior to addressing the four Group C topics would allow the four Group C topics to be ultimately addressed in a manner that would be more protective of the waters of the State. In addition, it would eliminate a future need for revisions to use designations, impaired water 303(d) listing and delisting criteria, use attainability analysis procedures, and designations of outstanding and exceptional resource waters in response to the development of these three water quality standards. The Commission staff recognizes the importance of addressing the four Group C topics; however, it is our judgment that addressing the three Group E topics first would ultimately lead to a better result. Nitrogen is a nutrient that can have a significant impact on our waterways, similar to phosphorus, only more toxic. With the heavy rains this season, we will see significant losses of nitrogen to our waterways due to leaching from the soil in areas of heavy rainfall. We need to make sure that management of N in our waterways is adequate to prevent loss of this nutrient and keep our groundwater safe.

- This should be a priority that should be addressed. The regulations on this should be looked at and changed. This is a big contributor to the poor water quality.
- (see also the comment letter from Midwest Environmental Advocates attached)

Response: WDNR currently regulates nitrogen through its water quality standard for ammonia. While the Department recognizes national initiatives to develop nitrogen criteria, it does not believe there is adequate scientific information at this time that is applicable to Wisconsin waters to effectively develop meaningful criteria or implementation procedures. This topic was not ranked as a high priority either by the public or the DNR.

Dissolved Oxygen Water Quality Criteria (4 comments, 6 votes)

- Wisconsin needs to determine if low oxygen levels are damaging fish and amphibian populations, as well as other lower levels of the food chain.
- We seem to lack oxygen and we suffer a large fish kill in June.
- Need to clean up gross water.
- Updated DO standards need to address those lakes and rivers that currently suffer from low or no DO. These standards need to be scientifically based and must address the nonpoint pollution impact to DO.

Response: The revision of the *Dissolved Oxygen Water Quality Criteria* was not ranked as a high priority by the public and the DNR. Prior to the revision of this standard, specific effort is needed in refining existing dissolved oxygen criteria to protect fish and other aquatic life in the new proposed natural communities for rivers and lakes. For these reasons, this topic was placed in Group E (topics that are not a priority for addressing in the 2008-2011 cycle).

Biocriteria (3 comments, 5 votes)

- This makes the identification process for troubled waters "real". It establishes a process of assessing water quality that can be used by citizens as well as scientists.
- Three general groups of topics for prioritization were identified: Group C topics were identified as those to be addressed in the 2008 to 2011 cycle as resources allow. Group D topics were identified as those that the Department is not currently able to address due to specific barriers. Group E topics were identified as those that are not a priority for addressing in the 2008-2011 cycle. It is our opinion that it would be beneficial to delay addressing several of the Group C topics until after several of the Group E topics have been addressed and implemented. Specifically, we suggest that

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prior to addressing the implementation of use designations, the development of impaired water 303(d) listing and delisting criteria, the development of use attainability analysis, and the implementation of a revised process for designating outstanding and exceptional resource water (currently in Group C), the Department develop and implement surface water criteria for nitrogen and suspended solids and biocriteria for surface water quality (currently in Group E). Development of these three Group E standards prior to addressing the four Group C topics would allow the four Group C topics to be ultimately addressed in a manner that would be more protective of the waters of the State. In addition, it would eliminate a future need for revisions to use designations, impaired water 303(d) listing and delisting criteria, use attainability analysis procedures, and designations of outstanding and exceptional resource waters in response to the development of these three water quality standards. The Commission staff recognizes the importance of addressing the four Group C topics; however, it is our judgment that addressing the three Group E topics first would ultimately lead to a better result.

- Frankly, most of these topics are difficult to understand, and therefore difficult for a layperson to prioritize. My sense is that [biocriteria] is an entire category of criteria which are not currently addressed. Because the EPA is encouraging states to address it, I'm ranking it highly.

Response: The development of aquatic biotic indexes for lakes and streams is currently in progress but more work is still needed to refine these indexes for the different natural communities proposed in the Assessment Methodology Project before moving forward with rule promulgation. The development of *Biocriteria* was placed in the category of topics that would not be addressed in 2008-2011 because this topic was ranked as a low priority by the public and WDNR.

Pesticide Water Quality Criteria (5 comments, 5 votes)

- Too much pesticides are allowed to infiltrate waters.
- We can all impact this topic at the local and individual level.
- I swim in the lake and so do my grandchildren.
- My logic here is similar to that of #3 [*Biocriteria*] – 4 [*Methylmercury Water Quality Standard*] above [*Biocriteria*: “My sense is that this is an entire category of criteria which are not currently addressed. Because the EPA is encouraging states to address it, I'm ranking it highly”; *Methylmercury*: “I just have a bad feeling about how mercury has accumulated in the environment and would rank this as worthy of being addressed, as a result”).
- Pesticides poison more than just pests.

Response: The revision of *Pesticide Water Quality Criteria* was not ranked as a high priority by the public or WDNR. For this reason, the Department classified this topic as “not a priority for addressing in the 2008-2011 cycle”. Furthermore, addressing this topic would need a comprehensive review to identify which pesticides and metabolites need to be evaluated in surface waters and which should have water quality criteria developed to ensure adequate protection of humans, fish, and other aquatic life.

Turbidity Water Quality Standard (4 comments, 4 votes)

- I want to see if there's information about why turbidity should be regulated, whether it actually has harmful impacts, as opposed to a standard based on how waters look (aesthetic considerations).
- We suggest that the Department modify its plans for development of a turbidity water quality standard. Turbidity in surface waters can result from several different causes, such as algal blooms and suspended solids. It is the opinion of the Commission staff that these causes should be addressed individually. Turbidity resulting from algal blooms is best addressed through water quality standards related to plant nutrients. We note that criteria for phosphorus are currently under

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development and that criteria for nitrogen as a nutrient are proposed to development. Development and implementation of these standards should do much to address algal-related turbidity. In place of a standard for turbidity, we suggest that the Department develop a water quality standard for suspended solids. This would be a more appropriate approach to developing water quality standards related turbidity.

- 'Clean' waters are a main priority aesthetically amongst the public...
- Delavan Lake is an important water resource to its surrounding residents and tourism/business interests. Often the bacterial load is enough to prohibit normal recreational uses.

Response: The Department recognizes the potential impacts of turbid water and suspended solids on aquatic ecosystems and other beneficial uses of waterbodies. However, additional information is needed to determine if turbidity is the best indicator to address this issue. In this regard, the MPCA (Minnesota Pollution Control Agency) is currently examining the possibility of modifying their turbidity criteria for total suspended solids criteria instead because of accuracy problems linked with turbidity data. The development of a *Turbidity Water Quality Standard* was not ranked as a high priority by the public or WDNR, and thus placed in Group E (not a priority for addressing in the 2008-2011 cycle).

Wasteload allocations for WI & Fox Rivers (3 comments, 4 votes)

- The towns around Lake Petenwell and Castle Rock continue to grow in population and dump garbage into the lakes like we are back in the 1800's. Why can they do this- please stop them now. Without these lakes this whole area of Wisconsin will be shut down.
- Rivers flow into other bodies of water.
- To improve the recreational and fishing opportunities on Lake Petenwell.

Response: The wasteload allocations in Chapter NR 212 specifically address and restrict the discharge of Biochemical Oxygen Demand (BOD) to the Wisconsin and Fox Rivers. The Department recognizes the importance of controlling discharge of BOD. The current BOD permits issued to the facilities discharging in the WI and Fox Rivers restrict the discharge of BOD to the maximum extent allowed by Wisconsin law, and these facilities substantially meet effluent limits for BOD. A review of the BOD allocations for the WI and Fox Rivers to determine whether changes would be appropriate or needed have not been identified as a priority by the public and WDNR to be addressed in this cycle.

5/10 Biochemical Oxygen Demand (BOD) Policy (3 comments, 3 votes)

- This policy was identified many years ago as a high priority... it's upsetting that new initiatives come along and the 5/10 Policy gets shoved back. I would like to see the old initiatives resolved before moving onto new ones.
- I question whether or not what the Department has done in the past with BOD regulations in general (not just the 5/10 thing) are legal. Need to have something in your rules besides a simple criterion for dissolved oxygen and nothing about how that criterion is consistently implemented.
- The impact to lake health (i.e. plant and fish) and the potential human health hazards if using the lake.

Response: The Department does not currently have sufficient data in hand to conduct a statewide reassessment of the 5/10 BOD Policy. This issue will be reconsidered for the next TSR cycle when and/if data are available to compare effluent BOD limits with the aquatic community responses.

Implementation of narrative standards (4 comments, 3 votes)

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- The Petenwell and Castle Rock Flowages experience water quality problems that stem from wastewater treatment facilities, paper mills and other industry as well as agricultural and municipal runoff which contribute high levels of phosphorus and nitrogen, as well as other pollutants, to the Wisconsin River. Because there are currently no phosphorus or nitrogen water quality standards the DNR must protect the water in the Flowages by implementing narrative standards. The Wisconsin DNR refuses to derive water quality based effluent limits in WPDES permits to implement narrative standards, and has in fact issued guidance directing permit writers not to do so. According to DNR's Draft Prioritized Topic List the development of numeric nitrogen water quality criteria is not a priority until 2012. We recommend the development of numeric nitrogen water quality criteria be addressed 2009-2011.
- The Petenwell and Castle Rock Flowages experience water quality problems that stem from upstream point source and non-point source pollution. Wastewater treatment facilities, paper mills and other industry as well as agricultural and municipal runoff which contribute high levels of phosphorus and nitrogen, as well as other pollutants, to the Wisconsin River. The flowages are directly affected by these pollutants; many summers in a row have been plagued with odor problems and unsightly and even toxic algae blooms (phosphorus and nitrogen are known to cause such problems). Because there are currently no phosphorus or nitrogen water quality standards the DNR must protect the water in the Flowages by implementing narrative standards. However, the Wisconsin DNR refuses to derive water quality based effluent limits in WPDES permits to implement narrative standards, and has in fact issued guidance directing permit writers not to do so.
- If we are to continue to permit such high nitrogen levels in the water, we need to make it easier to at least treat the issues as they arise.
- (see also the comment letter from Midwest Environmental Advocates attached)

Response: The Department believes that in the absence of specific water quality criteria for pollutants like nutrients, implementation of narrative standards could result in positive and measurable environmental changes in many water bodies throughout the state. However, the main concern here is the effort to see phosphorus managed more aggressively than currently allowed under NR 217, which has been at the core of many recent petitions by Midwest Environmental Advocates. To address this need, WDNR is moving forward with a numeric standard for phosphorus, which will be a more effective and clear-cut way to address this concern than through narrative standards. Other factors that complicate the use of narrative standards are: a) if narrative standards are implemented in a similar manner in multiple cases, WDNR may be required to codify those implementation procedures; and b) the broad implementation of narrative standards may also increase litigation from regulated entities which in itself may delay the implementation of any management actions that would otherwise result in water quality improvements. Using numeric criteria should be a more straightforward approach to phosphorus reductions in Wisconsin. For all these reasons, this topic was placed in the Group E (topics not to be a priority for this cycle).

Methylmercury Water Quality Standard (3 comments, 3 votes)

- I just have a bad feeling about how mercury has accumulated in the environment and would rank this as worthy of being addressed, as a result.
- Methylmercury behaves differently than mercury (more toxic and bioaccumulative) and is found in high concentrations in many of our surface waters. EPA came out with a fish tissue standard for this substance years ago, but it has still not been adopted by Wisconsin.

Response: Despite the fact that EPA published human health criteria and related guidance for methylmercury, before developing a methylmercury standard for Wisconsin more research is needed to determine the extent of the problem in Wisconsin and potential impact to humans. Because the EPA

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criteria are based on fish tissue concentration data, it is probable that this effort would require data collection in Wisconsin waters to link concentrations in fish tissue to concentrations in the water. This could provide a translator mechanism that would allow DNR to use data obtained through Wisconsin's fish consumption monitoring program to infer methylmercury concentration in the water. The implications of adopting a methylmercury standard on various DNR programs must also be considered.

- Wisconsin should strive to attain zero mercury emissions from coal fired power plants and other sources within the state. We may not be able to stem mercury emissions beyond our borders, but we sure could set a national example (if not global) and maybe make more edible fish available!

Response: The Department recognizes the need for mercury emission reduction but this concern is out of the scope of this TSR effort which deals specifically with water quality standards and not emission standards. This comment will be transferred to the DNR air management program which proposed revisions to the mercury emission rule that is now under legislative review (see <http://dnr.wi.gov/air/toxics/mercury/rule.htm>).

General review of variances in NR 104 (2 comment, 1 vote)

- Infringement on property owner rights.
- (see also the comment letter from Midwest Environmental Advocates attached)

Response: The Department recognizes that the variances listed in NR 104 are due for review and that updates may result in environmental improvements in water quality due to the need to impose more stringent effluent limitations in certain WPDES permits. However, this issue is effectively a subset of the issues that will be addressed by the completion of the larger Assessment Methodology effort, underway as part of Group A (topics currently in progress). WDNR believes that we are addressing this issue in a more comprehensive, robust way. If the Assessment Methodology is fully implemented, it will not only set the stage for improvements in local water quality, but will also begin to address the need to update the variance waters in NR 104.

Other topic proposed (13 comments)

- My top priority is **Great Lakes Restoration**. Your list assumes that all our water problems can be resolved by dealing with each one individually. Not so - there needs to be an over-all plan, and one person or agency responsible. If we don't do that many things will be missed while others will be worked on by several groups who have no working relationship with the others.

Response: The Office of Great Lakes prepared a Great Lakes Restoration and Protection Strategy that that will precisely help guide restoration and protection efforts in the Wisconsin portion of the Great Lakes Basin, by coordinating restoration efforts (more information available at: <http://dnr.wi.gov/org/water/greatlakes/wistrategy/>).

- The **size of the fish in Chetek Lake**, Chetek WI. The panfish do not seem to be growing? I run a resort and all I get from my clients are "why are the fish so small". I have received this complaint for the last 2 years. If it keeps going at this rate, I will be losing business because who wants to fish for small fish. We are a tourist town and we survive by the tourist. We need help with our lake or Chetek as you see it will be no more.

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Response: The Department understands this concern but it is out of the scope of this specific TSR effort. However, we will provide your comment to the regional DNR office (Tom Aartila, Basin Supervisor of the Upper Chippewa Basin).

- I am concerned about what happens to drugs, both prescription and over the counter when they are no longer needed. I have the suspicion that many of them are flushed down the toilet or put in landfills. Chippewa Co. had a collection of outdated drugs in connection with its hazardous waste collection. Dunn Co. also had a collection. However, Eau Claire Co. has not provided any means of disposal other than a discussion group on the use of drugs [during?] a collection of unused drugs in connection with its meeting at Sacred Heart Hospital. Those were sent to La Crosse as were those from Chippewa and Dunn Co. Because of reports that our rivers and other bodies of water containing drugs that can be harmful both to humans and animals, it is important that one source of pollution could be eased by the safe disposal of unused drugs. I read about your survey in this morning's paper. I realize there are many other sources of pollution but my special concern at this time is **drugs in the water and how to prevent more being added**.
- I think a third "high" priority for standards is to begin looking at **endocrine disruptors and other pharmaceuticals in our water supply**. Before setting standards, we should be setting priorities for research to look at the real effects of accumulating substances, such as caffeine, hormones, etc. in our water supply and innovative ways to remove them or reduce them from entering the system.

Response: The Department with other partner agencies may examine the possibility of developing water quality standards for pharmaceutical products in the next cycle depending on the availability of data and research studies, which are currently insufficient to address this issue.

- I am not familiar with all the technical terms, so I can't determine which of the items listed would fit. But, we are very concerned with the **green, un-swimmable, un-navigable water**. Treatment should occur in early Spring. The weedy growth is choking out everything. It's very discouraging. Please help us clear up the water!

Response: See response above to the comments for *Blue-Green Algal Toxin Criteria*.

- **NR 104 Stream Reclassification**. Again, this rule has been dormant for many years without resolve.

Response: This topic is addressed through the Assessment Methodology effort currently in progress.

- Preventing the **spread of invasive weeds** - the weeds are great to a point for the fish, but widespread growth can choke the lake and cause boating and swimming issues.

Response: The Department agrees that this is an important issue in our waterways but this concern does not fall under the goal of this process which is to review Wisconsin's surface water quality standards and select specific standards or related guidance for development or revision. WDNR has a distinct program dedicated to address invasive species (more information available at <http://dnr.wi.gov/invasives/>).

- **Public awareness and education**. Without public support and legislators hearing from their constituents, nothing will get done as well as it should.

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Response: The Department recognizes the need to engage the public more effectively in water quality-related decisions. Efforts are underway to schedule informational workshops to improve access to the information on the DNR website, and to provide basic educational material.

- The **quality of our water worries me and all the large trees that are sticking up in our lake** [one of the Chetek Chain of Lakes] and the DNR says can not be removed, I fear someone not knowing the lakes could hit them at night and have a very bad wreck. The trees are out in the lake not on the shore line.

Response: The Department understands your concern about safety in your lake but this issue is out of the scope of this TSR effort. However, your concern has been directed to Jim Hansen, the Northern Region Watershed Expert.

- A complete, **overall plan for addressing these issues**. The plan must contain measurable objectives, action items, responsible people, a task list, a time schedule, costs, and benefits. Without an overall plan, we will again piecemeal our efforts and not does the job as well as it must be done.

Response: The Department agrees with the importance of having a structured and well planned effort for achieving the topic revision and development goals set in this cycle. As planned originally in the TSR Process, each topic selected for revision or development in this cycle will be assigned a project lead who will develop a projected timeline. A template of such a timeline is available for project leads to customize for each of their TSR projects since each project will proceed independently of the others, on its own timeframe.

- **Groundwater abstraction and surface water impacts** (conjunctive use) There are an increasing number of conflicts arising between municipal utilities seeking to meet water supply needs and communities living adjacent to lakes and streams which could be impacted by such withdrawals, especially from the surficial aquifer which in SE WI is being viewed as a source of blending water that would allow utilities to meet radium standards, amongst others. Current state administrative codes do not adequately address conjunctive use conflicts. We need to act in a timely fashion to avoid serious disruptions to public services and major confrontations in our communities.

Response: The Department recognizes the importance of balancing uses of surface and groundwater, but this concern does not fall within the scope of this TSR effort and will be redirected to DNR staff Larry Lynch, a hydrogeologist working in the Bureau of Drinking Water and Groundwater.

- **Phosphorus Water Quality Criteria:** While we recommend the DNR's effort to adopt phosphorus water quality criteria, we are concerned that adoption of those criteria may be delayed. We understand that DNR has proposed numeric phosphorus water quality criteria to a stakeholder committee. We urge DNR to adopt these criteria without delay.

Response: WDNR feels strongly about the need to move forward with the completion of the proposed Phosphorus Water Quality Criteria. The Department will hold public hearings as soon as permission is granted by the Natural Resources Board and all efforts are being made to finalize this rule in 2009.

- **Exemption for certain substances (NR 106.10):** A letter addressed to the Petenwell and Castle Rock Stewards from Russ Rasmussen dated April 30, 2008, stated DNR has delayed the issuance of at least one water pollution permit because the EPA has indicated that it will object to the DNR's

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use of the exemption for non-contact cooling water found in NR 106.10. The Petenwell and Castle Rock Flowages are negatively impacted by DNR's delay in issuing this permit because the permit contains more stringent limits on the facility's discharge of phosphorus than the facility's expired permit. According to the triennial standards review documents, EPA has identified this provision as inconsistent with federal regulations. We need DNR to modify or remove this provision from state rules during the next three-year period to overcome EPA's objections to use. If DNR does not take action to remove this provision, future water pollution permits will be delayed and further, removal of this provision is a technical change necessary to ensure Wisconsin complies with the Clean Water Act.

Response: See response to comments on *Exemption for certain substances (NR 106.10)* above in section A.

- Three general groups of topics for prioritization were identified: Group C topics were identified as those to be addressed in the 2008 to 2011 cycle as resources allow. Group D topics were identified as those that the Department is not currently able to address due to specific barriers. Group E topics were identified as those that are not a priority for addressing in the 2008-2011 cycle. It is our opinion that it would be beneficial to delay addressing several of the Group C topics until after several of the Group E topics have been addressed and implemented. Specifically, we suggest that prior to addressing the implementation of use designations, the development of impaired water 303(d) listing and delisting criteria, the development of use attainability analysis, and the implementation of a revised process for designating outstanding and exceptional resource water (currently in Group C), the Department develop and implement surface water criteria for nitrogen and **suspended solids** and biocriteria for surface water quality (currently in Group E). Development of these three Group E standards prior to addressing the four Group C topics would allow the four Group C topics to be ultimately addressed in a manner that would be more protective of the waters of the State. In addition, it would eliminate a future need for revisions to use designations, impaired water 303(d) listing and delisting criteria, use attainability analysis procedures, and designations of outstanding and exceptional resource waters in response to the development of these three water quality standards. The Commission staff recognizes the importance of addressing the four Group C topics; however, it is our judgment that addressing the three Group E topics first would ultimately lead to a better result.

Response: See response to comments for *Turbidity Water Quality Standard* above in section A.

B) General Comments (22 comments)

- There appears to be nothing being done to address **lake health** when deterioration is visibly occurring. There is no apparent effort to find sources for the causes affecting lake health.
- Lawsuits are in progress which may link **cyanobacteria to BMAA** which is found naturally in cyanobacteria, but not in humans. It has now been found in humans with ALS, Parkinson, and Alzheimer. The economic risks to the state of Wisconsin by not taking the lead in developing controls and solutions may create some of the largest torts this state has ever seen.
- **[Chetek] Lake** needs desperate help....
- Over the past several summers we have seen a severe decline in water quality as well as increasing algal blooms and odor problems which negatively impact our businesses, our communities, our property interests, and our ability to recreate in and on the **Petenwell and Castle Rock Flowages**.

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- Our lake **Prairie Lake on the Chetek Chain** gets very green and full of **algae**. We need to clean this up so the lake can be used for boating and swimming.
- Denise Perrin has tried repeatedly to meet with Frank Koshere of the Wisconsin DNR. It hasn't happened. Everyone in the **Prairie Lakes** area has researched methods for dealing with the water quality but we've been told we couldn't proceed without the DNR's input. There are natural barriers in place, no farms adjacent to the lake, yet the growth continues to thrive. Our ultimate goal would be to have clear, healthy water so we could see the bottom of the lake.
- Thank you for the opportunity to submit comments on the Wisconsin Department of Natural Resources ("DNR") Triennial Standards Review Prioritized Topic List. The Petenwell and Castle Rock Stewards ("PACRS") are committed to improving water quality of the **Petenwell and Castle Rock Flowages** on the Wisconsin River. Over the past several summers we have seen a severe **decline in water quality as well as increasing algal blooms and odor problems** which negatively impact our businesses, our communities, our property interests, and our ability to recreate in and on the Petenwell and Castle Rock Flowages. Prioritization and action on several topics identified for review, revision, or development as part of DNR's Draft Prioritized Topic List will help improve water quality on these waters. Therefore we urge you to promptly take the following action during the current triennial review period to address water quality problems we experience on our flowages.
- I am the President of two HOA associations on **Lake Petenwell** in which there are 128 lot owners. In addition I own 65 lots on Lake Petenwell. This lake has become such a mess because of the lack standards placed on the farm fields, towns and paper companies that people are flocking away to other states to purchase property. Once the paper companies shut down there will be no place for people to work unless these lakes get cleaned up.

Response: The Department agrees with the urgency of addressing the decline of water quality on Wisconsin's waterbodies related to blue-green algal blooms, and believes that the adoption of the proposed Phosphorus Standard (close to completion) will greatly help in addressing this water quality issue. See also above response to comments for *Blue-Green Algal Toxin Criteria*.

- I'd like to now why the Wisconsin's DNR won't review the Minnesota standards on **Phosphorous control** and try to adopt similar standards. I watched the lobbyists do the "Good 'ol boy" routine at the hearing in Madison last summer and went away thinking that Money still talks.
- Additional **phosphorus** beyond natural loading forces needs to be stopped on all waters of the state.

Response: WDNR is currently moving forward with a numeric water quality standard for phosphorus. This proposed standard was developed by reviewing other approaches including Minnesota approach, and by using results from scientific studies performed in Wisconsin. See also response to the *Phosphorus Water Quality Criteria* in the section "Other Topic Proposed" above.

- It is of urgent importance that local, county, and regional governmental and quasi-governmental agencies must **jointly identify, decide, manage, and promulgate necessary processes and ordinances to preserve resources** for future use and well being of towns and their residents.

Response: The Department believes that this particular TRS Process will greatly contribute in preserving resources by making sure that priority water quality standards and guidance are developed or revised efficiently and on a regular basis. More specifically, the implementation of the Outstanding and Exceptional Resources Waters process aligns well with the concern raised in the comment (See

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above response to the comments for *Outstanding and Exceptional Resources Waters – Implementation* in Section A).

- We hope the department will take some time to evaluate **watershed-based permitting**. Addressing water quality on a watershed basis in a coordinated permitting system should lead to more efficient and effective environmental protection.

Response: The Department is exploring the possibility of doing watershed-based permitting, but some uncertainties remain related to state law that prevent immediate implementation of the program. Also, workload associated with the implementation of watershed-based permitting would be challenging because having all the permits in a watershed expiring at the same time can easily overload regional permit drafters.

- Water is essential to our survival as a species, not only through our direct need and demand for water but also because much of our environment is dependent upon water. Seeking to balance our human needs and demands with a recognition of the legitimate needs and demands of nature is an issue of global importance. In part, we have addressed this issue reasonably well in terms of water quality--through pollution control acts, etc.--but we are just finding that **water quantity** is an emerging issue--see, for example, the conjunctive use concerns above. As quality deteriorates, quantity is diminished or costs increase significantly. Our goal as society should be to live in such harmony with our natural resource base that we can maintain good water quality and thereby **maintain adequate quantity to meet the needs of people and nature**.

Response: Adequate management of water uses is one of the main priorities of WDNR. However, this particular concern regarding management of water quantity raised above is out of the scope of this TRS process and will be transferred to the Bureau of Drinking Water and Groundwater.

- I'm not happy about the **power plant expansion in Oak Creek**. I don't think we should be extracting and returning water to the lake, as is proposed, particularly when neighboring states have outlawed the practice. And I certainly don't think we should be burning more coal.

Response: The Department issues water withdrawal and discharge permits that are consistent with the Federal Clean Water Act requirements. The comment is not directly related to the solicitation for standards as part of the TSR process but will be directed to Tom Mugan (Environmental Engineer Supervisor, Division of Water Watershed Management).

- The prioritized topic list indicated a need for the State to revise the mixing zone provisions for certain bioaccumulative pollutants to eliminate such mixing zones. Based on our experience with ongoing standards development, we believe that there is a need to specifically **define the limits of mixing zones in all cases**. Thus, we recommend that the Department revise this topic to include a broader examination of the definition and application of mixing zones for all water quality standards and criteria.

Response: Wisconsin regulation regarding mixing zones is identified in Chapter NR 102 (Wis. Adm. Code), and those provisions are consistent with Federal Law. The specific area needing revisions is a result of the Federal Great Lakes Water Quality Initiative passed in 1995 and adopted by Wisconsin in 1997. Expanding the scope of revisions to mixing zone provisions in NR 102 could result in Wisconsin having mixing zone rules that are inconsistent with the Federal Clean Water Act and with the regulations used in other states in the Upper Midwest. The Department believes that a significant

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departure from Federal law of this nature is not consistent with the expectations of the Natural Resources Board or the Wisconsin Legislature.

- So far we have not found any real corrective action that we can take, other than **monitoring and education**. Would be nice to better understand what is on our lake, is it toxic, and should we be more aggressive.

Response: The Department agrees that water monitoring is essential in adequately protecting our waterways and has a distinct water monitoring program (more information is available at <http://dnr.wi.gov/org/water/monitoring/>). Moreover, the Department recognizes the need to engage public more effectively in water quality-related decisions. Efforts are underway to schedule informational workshops to improve access to the information on the DNR website, and to provide basic education material.

- Far **greater fines need to assess for pollution violations**. The State Police hand out tickets for non-life-threatening speed infractions. Pollution is a serious danger to humans and wildlife. One can no longer eat fish from these rivers on a regular basis. This must correct now.

Response: This concern is out of the scope of this TSR effort. Federal regulation places caps on fines and forfeitures.

- The state needs to work to create a better **balance between recreational water use and the needs of agriculture**. There are actions (buffer zones, limit winter manure distribution) that can be taken immediately that would have a profound long-term impact on overall water quality with minimal impact on farmers livelihood.

Response: The Department agrees that reducing the impact of agricultural activities is a key in maintaining and improving water quality of Wisconsin's waterways for all water uses. Revising Wisconsin rules regarding the applicability of standards to nonpoint sources & stormwater (topic placed in Group C as priorities to be addressed in the 2008-2011 cycle) will help in addressing this issue.

- **Initiate contact with local, county, regional, and state entities in following up storm water damage** within the past year.

Response: This issue is out of the scope of this TSR process. However, your concern has been noted and shared with the Water Leaders of the five DNR regions (Tom Jerow (Northern Region), Charlie Verhoeven (Northeastern Region), Ken Johnson (South Central Region), Jim McNelly (Southeastern Region) and Dan Baumann (West Central Region)).

- Thank you for the work that you are all doing for the preservation of our fresh water resource.
- Thanks for giving me the individual opportunity to comment.

C) Response to comment letter from Midwest Environmental Advocates (letter attached)

In its comment letter to the Department, Midwest Environmental Advocates (MEA) (also representing River Alliance of WI, Clean Wisconsin, and Friends of Milwaukee's Rivers) provided their perspective on legal issues regarding several of the topics. Two of these topics are already in Groups A or B:

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Thermal and Phosphorus Criteria, and Antidegradation. The remainder of their priority topics were from Group E—those that the Department had not selected as high priority for the upcoming triennium. One of these, **Exemption for Certain Substances (NR 106)**, was selected for inclusion in Group C. For the remainder of the topics listed below, the TSR workgroup maintains that **although there may be legal issues, addressing these items in the upcoming triennium will not result in more measurable, environmental progress than the topics selected in Group C.**

The topics that received comments regarding legal considerations are:

- *Exemption for Certain Substances (NR 106):* **This topic has been moved to Group C to address legal concerns raised through public comment.**
U.S. EPA has indicated that this section of our Administrative Rules is inconsistent with federal law. At their discretion, U.S. EPA may object to the issuance of WPDES permits if we apply s. NR 106.10 as written. In fact, U.S. EPA currently has formally objected to the issuance of WPDES permits for Mosinee Paper and Domtar Paper – Rothschild. Modification of this rule is necessary to address U.S. EPA’s objections. Leaving it unchanged may result in additional objections and a growing permit backlog.
- *NR 104 Variances:* **This concern is being addressed more comprehensively through the Assessment Methodology effort (Group A).**
The Department recognizes that the variances listed in NR 104 are due for review and that updates may result in environmental improvements in water quality due to the need to impose more stringent effluent limitations in certain WPDES permits. However, this issue is effectively a subset of the issues that will be addressed by the completion of the larger Assessment Methodology effort, underway as part of Group A. WDNR believes that we are addressing this issue in a more comprehensive, robust way. If the Assessment Methodology is fully implemented, it will not only set the stage for improvements in local water quality, but will also begin to address the need to update the variance waters in NR 104.
- *Implementation of Narrative Standards:* **This concern is being addressed through creation of a Phosphorus Standard (Group A).**
The TSR Workgroup believes that in the absence of specific water quality criteria for pollutants like nutrients, implementation of narrative standards could result in positive and measurable environmental changes in many water bodies throughout the state. However, the main concern here is the effort to see **phosphorus** managed more aggressively than currently allowed under NR 217, which has been at the core of many recent petitions by Midwest Environmental Advocates. To address this need, WDNR is moving forward with a *numeric* standard for phosphorus, which will be a more effective and clear-cut way to address this concern than through narrative standards. Other factors that complicate the use of narrative standards are a) if narrative standards are implemented in a similar manner in multiple cases, WDNR may be required to codify those implementation procedures, and b) the broad implementation of narrative standards may also increase litigation from regulated entities which in itself may delay the implementation of any management actions that would otherwise result in water quality improvements. Using numeric criteria should be a more straightforward approach to phosphorus reductions in Wisconsin.
- *Nitrogen Surface Water Quality Criteria:* **WDNR is not able to address this at this time.**
WDNR currently regulates nitrogen through its water quality standard for ammonia. While the Department recognizes national initiatives to develop nitrogen criteria, it does not believe there is

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adequate information at this time that is applicable to Wisconsin waters to effectively develop meaningful criteria or implementation procedures.

- *Adoption of Toxic Criteria:* **Recently addressed; will address again periodically, as needed.** WDNR just updated water quality criteria for 18 toxic substances (received by the legislature in August 2008), and will continue to keep abreast of U.S. EPA efforts to develop new national criteria. As those criteria are promulgated at the federal level, WDNR will assess the need for revisions and make recommendations to Water Division Management at that time on how and when to initiate any necessary rulemaking.

D) List of Respondents

Name	Organization	County or State
Scott Van Egeren	n.a.	n.a.
Shanon Werb	n.a.	n.a.
Beth Bordeau	n.a.	n.a.
John Emery	n.a.	n.a.
Marsha Camitta	n.a.	n.a.
Sheila Wells	n.a.	Barron
James Leary	n.a.	Chippewa
Scott Bordeau	n.a.	Dane
John and Mary Galbreath	n.a.	Dunn
Peggy McAloon	n.a.	Dunn
Joy Bergstrand	n.a.	Dunn
Dick Lamers	n.a.	Dunn
Mark Spliethoff	n.a.	Illinois
Virginia Hansis	n.a.	Kewaunee
Todd Adams	n.a.	Minnesota
Jon Motquin	n.a.	Outagamie
Daniel G. Heath	n.a.	Walworth
Karl G Klingforth	Adams County Board and Vice Commodore Barnum Bay Yacht Club	Portage
Chris Murphy, County Conservationist	Adams County Wisconsin, Land and Water Conservation Department	Adams
John Siegert	Advisory Board, Root River Environmental Education Community Center	Racine
Brian Tisch, Big Bay Association President	Big Bay Association, a 92 lot development on the Juneau County side of Lake Petenwell	Dane
William Hackett	Chetek Lakes Protection Association	Barron
John Plaza	Chetek Lakes Protection Association	Barron
John Cline	Chetek Lakes Protection Association	Barron
Keith Reopelle, Policy Director	Clean Wisconsin	n.a.
Pat Sutter	Dane County Land & Water Resources Department	Dane
Cheryl Nenn, Milwaukee Riverkeeper	Friends of Milwaukee's Rivers	Milwaukee
Lisa Millard	Grand View Lodge and Resort	Barron

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John J. Beale	Grand View Shores Waterfront Community Association, LTD	Dane
Julia Van Hamm	Homeowner of 1287 21 7/8th Street, Cameron, Wisconsin	Minnesota
Jeffrey A. Thornton	International Environmental Management Services Ltd	Waukesha
Michael J Brodie	Largon Lake Homeowners Association	Minnesota
Laura Kracum	Lower Long Lake Protection and Rehabilitation District (LLLPRD)	Chippewa
Jon W. Schellpfeffer	Madison Metropolitan Sewerage District	Dane
Betsy Lawton, Attorney	Midwest Environmental Advocates	Dane
Ron Von Haden	Petenwell and Castle Property Owners Association (PCPOA); Petenwell and Castle Rock Stewards (PACRS)	Grant
PACRS steering committee	Petenwell and Castle Rock Stewards (PACRS)	Adams
Donnie Snow	Racine, Parks/Recreation and Cultural Services	Racine
Denny Caneff, Executive Director	River Alliance of Wisconsin	n.a.
John R. Beale	Sandstone Shoreline Properties, INC	Dane
Kathy Kascewicz	South Fork Flambeau River Watershed Association	Price
Philip C. Evenson, Executive Director	Southeastern Wisconsin Regional Planning Commission	Waukesha
Brian Russart	University of WI Extension/ Milwaukee County Parks	Milwaukee
Elisabeth Harrahy	University of Wisconsin - Whitewater	Walworth
Bill Wendorff	UW - Madison Food Science Dept.	Dane
Sandy Gillum	Wisconsin Association of Lakes	Vilas
Jim Te Selle	Wisconsin Great Lakes Coalition (WGLC)	Sheboygan
<i>(n.a.: not available)</i>		