

## **Notice of Hearing**

The Department of Natural Resources announces that it will hold public hearings on a permanent rule to revise ch. NR 102, relating to the processes for waterbody assessments and impaired waters listing, biological criteria for water quality standards, and biological confirmation of phosphorus impairments, at the times and places shown below.

### **Hearing Information**

Date: Thursday, September 12, 2019

Time: 10:00 a.m.

Locations (simultaneous via Telepresence):

- Madison: Department of Natural Resources, 101 S. Webster St., Madison, WI 53707, Room G09
- Green Bay: DNR Service Center, 2984 Shawano Ave, Green Bay WI 54313, Lake Michigan Room

### **Rule Information**

This rule package addresses several areas related to the state's assessments of its streams, rivers, lakes and other waterbodies. It focuses largely on assessments related to the biological quality of a waterbody. It includes Wisconsin's current procedures for conducting surface water impairment assessments, and it establishes narrative biocriteria that describes the expected quality of aquatic communities such as fish, insects, and plants. It establishes criteria for chlorophyll a to protect recreation in some surface waters, and oxythermal criteria to protect lakes with coldwater fish. The rule also specifies procedures for evaluating whether a waterbody's phosphorus criteria are attained, including incorporation of biological metrics (phosphorus response indicators) within that decision-making framework.

### **Accessibility**

1. Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter at least 10 days before the date of the scheduled hearing, by e-mail to [Kristi.Minahan@wisconsin.gov](mailto:Kristi.Minahan@wisconsin.gov).
2. Alternatively, you may contact the Department of Natural Resources TDD at (608) 267-6897. The hearing facility is accessible to disabled users.
3. Pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call with specific information on your request at least 10 days before the date of the scheduled hearing.
4. Handicap access is available at the hearing location.

## **Appearances at the Hearing and Submittal of Written Comments**

The public has the opportunity to testify at the hearing. Registration will take place at the hearing by completing a Hearing Appearance form, which will be provided. The Hearing Appearance form also can be used for submitting a written comment at the hearing. Written comments may be submitted by U.S. mail, fax, E-mail, or through the internet and will have the same weight and effect as oral statements presented at the public hearing. Comments on the proposed rule must be received on or before Friday, September 20, 2019. Written comments and any questions on the proposed rules should be submitted to:

Department of Natural Resources  
Attn: Kristi Minahan – WY/3  
P.O. Box 7921  
101 S. Webster Street  
Madison, WI 53707-7921

The rule may be viewed at: <https://dnr.wi.gov/news/input/ProposedPermanent.html>

Comments can be made at: [DNRAAdministrativeRulesComments@wisconsin.gov](mailto:DNRAAdministrativeRulesComments@wisconsin.gov)

## **Initial Regulatory Flexibility Analysis**

This rule primarily pertains to biological assessments of surface waters. The department expects this rule package to have minimal economic impacts, for two main reasons:

1. This rule largely documents protocols and procedures already used by the department for standard assessments. These types of assessments are common amongst states. Because it largely reflects the status-quo, additional costs are not anticipated.
2. Biological metrics do not typically have direct impacts on the regulated community. Rather, they help the department determine what types of stressors may be affecting biological communities, and whether restoration actions may be needed to mitigate those stressors. In the rare case where the biological community is impaired due to a pollutant that is present at low enough levels that the pollutant is not exceeding its criterion, the department would need to go through the process of developing a more stringent site-specific criterion for that pollutant before permit limits might be affected.

It is not expected that there will be a significant impact to small businesses.

## **Agency Small Business Regulatory Coordinator:**

Daniela Branco, (608) 266-7524  
DanielaH.Branco@wisconsin.gov

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN

DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_

Preston D. Cole, Secretary