

Notice of Hearing

The Department of Natural Resources announces that it will hold a second public hearing on a permanent rule CR 19-094 (Board Order WY-23-13) to revise ch. NR 102 relating to processes for waterbody assessments and impaired waters listing, biological thresholds for water quality standards, and biological confirmation of phosphorus impairments. In addition, a revision is proposed to one section of ch. NR 217. The DNR is seeking public comment and feedback on germane modifications to WY-23-13 at the time and virtual location shown below.

Hearing Information

Date: October 25, 2021

Time: 10:00 AM

Virtual Location Link:

Join Zoom meeting: <https://us02web.zoom.us/j/88422991103>

Meeting ID: 884 2299 1103

Dial in: 1-312-626-6799 (Chicago region)

Find your local number: <https://us02web.zoom.us/u/kbE81RS6Mx>

Rule Information

This rule package addresses several areas related to the state's assessments of its streams, rivers, lakes, and reservoirs. It focuses largely on assessments related to the biological quality of a waterbody. The rule package includes the following aspects:

- It codifies Wisconsin's current procedures for conducting surface water assessments under the Clean Water Act, and establishes biological assessment thresholds for evaluating the health of aquatic biological communities such as plants, fish, insects and algae.
- It clarifies how attainment of the existing phosphorus criteria is determined and makes those protocols consistent across codes. Further, it incorporates flexibility for reviewing potential phosphorus impairments by considering whether a biological response to phosphorus is evident.
- It revises certain standards for dissolved oxygen, and establishes a dissolved oxygen and temperature standard for lakes with coldwater fisheries.

In December 2019, the Natural Resources Board adopted Board Order WY-23-13. The board order was approved by the Governor on December 20, 2019 and submitted to the Chief Clerks on December 23, 2019. On February 28, 2020, the department recalled the rule from the legislative committees to make germane modifications to the proposed rule. The department has considered comments presented at the legislative hearings and is proposing modifications to the rule that was originally approved by the Natural Resources Board on December 11, 2019, approved by the Governor and submitted to the legislature.

Accessibility

For the hearing or visually impaired, non-English speakers, or those with other personal circumstances which might make communication at the meeting/hearing difficult, DNR will, to the maximum extent possible and with reasonable advance notice, provide aids including an interpreter, or a non-English, large-print, or recorded version of hearing documents. To access these resources, please contact the email address or phone number listed below as soon as possible.

Appearances at the Hearing and Submittal of Written Comments

The public has the opportunity to testify at the hearing. Registration will take place while logging into the virtual hearing or by completing a Hearing Appearance form, which is available [here](#). Pre-registration is strongly encouraged if you plan to provide spoken comments during the hearing. To pre-register, either use the Zoom link above prior to the day of the hearing or download and complete the fillable [hearing appearance form](#) and send it to Kristi.Minahan@wisconsin.gov.

Comments on the proposed rule must be received on or before November 1, 2021. Written comments may be submitted by U.S. mail, E-mail, or through the internet and will have the same weight and effect as oral statements presented at the public hearing. **Written comments and any questions on the proposed rules should be submitted to:**

Attn: Kristi Minahan – WY/3

Department of Natural Resources

P.O. Box 7921

101 S. Webster Street

Madison, WI 53707-7921

Kristi.Minahan@wisconsin.gov or DNRAAdministrativeRulesComments@wisconsin.gov

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

The rule may also be reviewed, and comments made at:
<http://docs.legis.wisconsin.gov/code/chr/hearings>.

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 thresholds 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:

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