2015 – 2017 Triennial Review Topics NOT for Ranking

In Progress, will soon be in progress
Barrier to Progress
Outside TSR Scope

General Categories	**Topics NOT to be ranked:**	**Why Omitted from Ranking Process**	**Description**
Guidance and Rules	Use Designations - Revision	Topic In Progress – Automatically Included in TSR 2015-2017	Federal law requires states to assign a use designation to surface waters in order to determine the water quality goals for those waterbodies. WDNR has assigned uses for: a) General Use, b) Fish & Other Aquatic Life Use; c) Public Health & Welfare Use, d) Recreational Use; and e) Wildlife Use. These designated uses have been in place since 1976 and were most recently updated in 1991. Based on new scientific data, WDNR has become aware that various waterbodies across the state have been listed incorrectly, and therefore may not be receiving the relevant level of protection. Furthermore, perspectives on the conditions associated with each of the use designations vary widely between different affected groups, including regulated entities, environmental advocates, and the general public. This has led to confusion about WDNR's water quality management objectives and has created conflicts in the expectations of the WDNR among those many constituents. In response, WDNR initiated an effort to re-design its use designations to be ecologically and scientifically defensible, understandable to affected parties, and supported by well-designed monitoring initiatives. In order to utilize the re-designed use designations and correct the shortcomings of the current designated use system the WDNR needs to review and update codified use designations. Related Rule(s): NR 102 Water quality standards for Wisconsin surface waters, NR 104 Uses and designated standards, NR 207 Water quality antidegradation
	Effluent Limit Calculations Guidance and Rules - Revision		These rule revisions were previously listed in group A. Pink sheet/scope statement was approved by the Governor on 05/29/12 and the Natural Resources Board on 06/27/12. NR 106 rule language is currently being revised to address changes required by EPA. Once these rule revisions are complete, implementation guidance will need to be revised in a number of areas, including whole effluent toxicity (WET), use restriction development, chlorides, and others. Related Rule(s): Ch. NR 106, Wis. Adm. Code, implementation of water quality standard in WPDES permits.
	Phosphorus Near Shore or Whole Lake Models for Great Lakes Development & Implementation		Implementation of a dilution model to calculate phosphorus limits for discharges to the Great Lakes. Rule requiring limits based on these models were adopted in late 2010 and permits impacted by the models have been and are currently being issued, or have been administratively delayed due to lack of models.

Guidance and Rules	Phosphorus Site-Specific Criteria (SSC) Guidance and Rules - Development	Topic In Progress – Automatically Included in TSR 2015-2017	Wisconsin has developed numeric water quality criteria to protect fish and aquatic life from the effects of excess phosphorus. However, site-specific conditions may cause statewide criteria to be more or less protective than necessary to maintain a balanced indigenous biological community. WDNR has not codified procedures for deriving site-specific criteria for nutrients including phosphorus pursuant to s. NR 102.06(7). WDNR is currently developing guidance to inform staff and external audiences about standard procedures that can be used to develop site-specific criteria for nutrients. It is recommended that WDNR develop a rule that defines the site-specific criteria development process. Related Rule(s): NR 102 Water quality standards for Wisconsin surface waters, NR 217 Effluent Standard and Limitations.
Outstanding & Exceptional Resource Waters (ORW/ERW)	ORW/ERW Lake Classification Development	Part of the Use Designation Revision.	ORW/ERW classification needs to include a lakes element and not just be confined to streams. This is particularly important since our proposed procedures for site specific criteria include no provision to protect high quality lakes (e.g. 2 story lakes) with something more stringent than the statewide criteria.
	Revision of Process for Determining Outstanding and Exceptional Resource Waters	Part of the Use Designation Revision.	Federal law requires states to identify and protect "High Quality Waters". In Wisconsin, these waters are referred to as Outstanding or Exceptional Resource Waters (ORW/ERWs) and are enumerated in sections NR 102.10 and NR 102.11, respectively. Waterbodies that are assigned the special ORW/ERW designation have additional protections afforded them that are not automatically provided for waterbodies not given these designations. The WDNR has not standardized the ORW/ERW designation process. Therefore, the method to add or delete waters from the list of ORW/ERWs is yet unclear to staff and citizens of the state. An effort to update this process should be considered. Related Rule(s): NR 102 Water quality standards for Wisconsin surface waters, NR 207 Water quality antidegradation.
	Revision of Outstanding & Exceptional Resource Waters List	Barrier to progress--cannot be started until the Use Designation Revision is complete.	Pending the outcome of the ORW/ERW process determination redesign, WDNR may initiate a review of previously codified Outstanding and Exceptional Resource Waters. In addition, WDNR may consider additional waters for inclusion in the ORW/ERW designation. Related Rule(s): NR 102 Water quality standards for Wisconsin surface waters, NR 207 Water quality antidegradation.
Position Requirements	Wisconsin Hydrogeologist Requirements - Revision	This review is focused on standards or criteria revision. Hiring requirements are outside the scope of this review, but your comments were forwarded to Human Resources.	"Grandfathering" provision for hydrogeologists is needed, else many decades of experience will be lost to the consulting field in Wisconsin.

Procedure or Guidance Development	Adaptive Management/Water Quality Trading Implementation Guidance Nonpoint Sources	Topic In Progress – Automatically Included in TSR 2015-2017	Staff in the Bureau of Watershed Management are taking the lead on developing an outline for guidance for nonpoint sources and partners (county LCDs, DATCP), however final guidance will be developed by the cross-program AM/WQT team. Related Rule(s): NR 102, water quality standards for Wisconsin surface waters; NR 217, implementation of phosphorus standards in WPDES permits.
	Cooling Water Intake Structure Best Technology Available Standards	Barrier to progress--This topic is pending EPA rule changes. Once those changes are completed DNR will begin work on this topic.	This topic is pending EPA rule changes. Once federal regulations are in place, we will need to create rule language and guidance to implement these requirements. Related Rule(s): Section 283.31(6), Wis. Stats., regulating intake structures in WPDES permits, and NR 106 Implementation of water quality standard in WPDES permits.
	Utility Shoreland Zoning Best Management Practices (BMPs) and Guidance	This review is focused on standards or criteria revision. Your comments were given to the Shoreland Zoning & Protection section.	County shoreland zoning ordinances vary from one county to the next, making it difficult for utility project scoping and for proceeding with efficient and timely project implementation. In addition, county shoreland zoning ordinances are often duplicative of, and in many cases more restrictive than WDNR permits. Finally, county shoreland zoning ordinances may be more restrictive than the NR 115 Model Zoning Ordinance, and counties are at different stages in adopting and implementing their shoreland zoning ordinances. Request: Develop Best Management Practices (BMPs) for routine construction and maintenance of electric and gas services in shoreland areas to incorporate into Model Zoning Ordinance, and develop Guidance that utilities can follow as an alternative to obtaining local shoreland zoning permits. Developing a set of utility BMPs that utilities can follow would assure the same level of environmental protection as under existing local permitting requirements. Guidance that allows utilities to follow BMPs and other WDNR permitting requirements (e.g., Chapter 30 permits, and wetland permits under Sec. 281.36, Stats.) instead of obtaining local permits would eliminate the uncertainty, inconsistency, and duplicative requirements that utilities are facing when having to obtain NR 115 approvals from the many individual counties where customer operations projects are located. The WDNR is also proposing Natural Resources Board approval of a Secretary's Executive Order to extend the deadline for county adoption of updated ordinances under NR 115 from February 1, 2014 until May 1, 2016 (attached). This is the second extension of the deadline for counties to revise their shoreland zoning ordinances. A prior Executive Order extended the compliance date from February 1, 2012 until February 1, 2014. These extensions contribute to the uncertainty and inconsistency that affect utilities' ability to provide electric and gas to existing customers and to support new economic growth and business development.
	Wetland Restoration/Protection	This review is focused on standards or criteria revision. Your comments were given to the Dams/Floodplains section and the Waterways & Wetlands section.	Use of dam removal to restore riverine type wetlands from their current use of impoundments or flowages. Discuss ending the funding of dam upgrades and reconstruction to dam removal. End the use of taxpayer funds for dams and use funds for riverine restorations. Consider the decommissioning of dams to reach better water quality on unnatural water bodies and restore natural ecosystems from the current artificial ones.

Procedure or Policy Revision	Mixing Zone Policy	Topic In Progress – Automatically Included in TSR 2015-2017	Review and consider updating mixing zone policy at NR 102.05(3) and implementation rules, including: the default use of 2x CMC, when there is no upstream dilution flow (NR 106.06(3)(b)). See WDNR's 2011-2014 Final TSR Report, at page 13: "Mixing zones are limited areas associated with point source discharges in which water quality standards may be exceeded. The area associated with these zones varies according to the type of pollutants and the type of protection warranted (i.e. acute, chronic, etc.). As part of the federal Great Lake Water Quality Initiative of 1995, EPA required states to eliminate mixing zones altogether for certain bioaccumulative pollutants. To be consistent with federal law, Wisconsin must revise its mixing zone provisions to eliminate such mixing zones.
	Phosphorus Implementation Guidance Revision		Wisconsin's water quality standards for phosphorus took effect on December 1, 2010. Implementation guidance was made available January 2, 2012 to clarify the implementation elements described in ch. NR 217. Since that time, WDNR has improved several aspects of its program through implementation of these standards. This guidance document should be updated to reflect these improvements, which include: 1) improved compliance schedule language, 2) additional guidance on calculating interim limits for phosphorus, and 3) calculating phosphorus limits to protect downstream waters. This guidance document should also be amended to reflect recently developed guidance relating to adaptive management and water quality trading. Related Rule(s): NR 102 Water quality standards for Wisconsin surface waters; NR 217 Effluent Standard and Limitations.
	Variance Determination Procedure		WDNR would like to continue streamlining the general variance processing procedure. EPA and WDNR are working together to develop procedures for multiple discharger variances. WDNR will create guidance and potentially change rules based on upcoming federal rule changes. Related Rule(s): Ch. NR 106, Wis. Adm. Code, implementation of water quality standard in WPDES permits; Ch. NR 217, Wis. Adm. Code, implementation of phosphorus standards in WPDES permits; s. 283.15, Wis. Stats., variances to water quality standard.
	Variance Waters List	Barrier to progress--waiting on Designated Use, Water Quality rule package update.	Federal law allows variances to surface water quality standards under certain conditions. State law also allows variances to standards as they pertain to the imposition of effluent limitations in a WPDES permit (See s. 283.15(5)(b), Wis. Stats.). In either case, all surface water quality standards and associated variances to those standards are to be reviewed each permit term to determine if the conditions for granting the variance continue to be applicable. The variances that have been approved in NR 104 of the Wisconsin Administrative Code should be reviewed on a case-by-case basis to determine whether or not they should remain in effect. See 33 USC 1313(c) and 40 CFR 131.20.Related Rule(s): NR 104 Uses and designated standards.
Research	Climate Change	DNR is committed to considering Climate Change in all endeavors.	Significant efforts are underway at all levels of government to evaluate resiliency in the context of climate change. While a broad topic, the WDNR should spend time critically thinking about how they will support resiliency and adaptation in the regulation and guidance arena-this will likely involve supporting innovative approaches that might involve a greater level of risk taking. Impacts of climate change include more significant storm events and massive runoff. Many wastewater treatment facilities are investigating a number of new techniques to deal with these significant runoff events but will need to have some flexibility to implement these measures.

Specific Waterbodies	Total Suspended Solids Site Specific Criterion For the Impaired Reach of the Mississippi River Development	These are a local needs topics and at the moment outside the scope of this review. In the future we hope to use the TSR for specific waterbody or watershed criteria development.	This stretch of Geisel creek is currently classified as Limited Aquatic Life (LAL). Based on biological data gathered and observations during a 3 year water quality study of the watershed, the stretch of Geisel Creek from Highway 57 downstream to Dunes Lake should be changed to “Warm Water Forage Fish Community” or “Warm Water Sport Fish Community”. Heavy spawning runs of Lake Michigan tributary spawners (white and red horse suckers) occur on the stream with northern pike and other small forage fish observed in this stretch beginning in early spring after ice-out through the summer. The suckers and northern pike are known to spawn north of Dunn Road and north of Hwy 57. While Geisel Creek north of the center of section 19 experiences non continuous flow this stretch of water has been observed to have continuous flow. Flow is dependent on precipitation and ground water conditions. This summer WDNR crews observed young of the year northern pike at the intersection of Geisel Creek and Dunn road. To properly protect the aquatic life in this section of Geisel Creek a designation change under NR 102.04 (3) is needed. This is for Geisel Creek in Door County, Town of Sevastopol T28N R27E Center of section 18 to Dunes Lake.
	Phosphorus Limit for Point Sources in Door County - Implementation		NR 217.13 (1)(b) States: "Water quality based effluent limitations for phosphorus shall be calculated based on the applicable phosphorus criteria in s.NR102.06 at the point of discharge, except the WDNR may calculate the limitation to protect downstream waters. Dunes lake is an 80 acre drainage lake that is not stratified, and should thus have a total phosphorus limitation of 40 ug/L limit, as stated in NR 102.06 (4), to protect the fish and aquatic life present in this water body. In 2013 monthly observations from May through October were noted for forage fish and young of the year northern pike. In addition a couple of adult northern pike were also observed in the same time period. Lake Michigan is the receiving water body after water from Dunes Lake travels down Shivering Sands Creek. In accordance to NR 102.06(4) the Total Phosphorus limit is listed as 7 ug/L. To date the Sevastopol Sanitary District has not had to meet any phosphorus limits when discharging effluent waters to Geisel Creek. For the protection of aquatic life in Geisel Creek, Dunes Lake, Shivering Sands Creek and Lake Michigan, effluent discharge limitations for total phosphorus need to be limited to a minimum of 40 ug/l.to Geisel Creek, Dunes Lake, Shivering Sands Creek and Lake Michigan. Door County T28N R27E sections 30, 31, & 32.
	Geisel Creek in Door County - Reclassification		Site Specific TSS Criterion for the turbidity impaired reach of the Mississippi River: St. Croix Confluence to Upper Lake Pepin. The MN Pollution Control Agency developed a draft South metro Mississippi River TSS TMDL with site specific criterion of 32 mg/L TSS. This TMDL includes the Wisconsin Mississippi River border waters, and sediment load reductions have been recommended for some of Wisconsin’s watersheds in the impaired river reach. Staff from WDNR have been actively working with MPCA on water quality problems on the Mississippi River for the past 2 decades and generally support the sediment load reductions that have been identified in this TMDL.

Total Maximum Daily Load (TMDL)	TMDL Implementation Planning Guidance Development	Staff already committed to work on this in the upcoming year.	A statewide planning coordinator, Andrew Craig, was recently hired. He is committed to creating comprehensive guidance related to developing point source and nonpoint implementation plans (319 "9-key element" watershed plans) in areas where TMDLs have been approved. Related Rule(s): Ch. NR 102, Wis. Adm. Code, water quality standards for Wisconsin surface waters; Ch. NR 217, Wis. Adm. Code, implementation of phosphorus standards in WPDES permits.
Water Quality Criteria Development	Biological	Topic In Progress – Automatically Included in TSR 2015-2017	Currently, the WDNR does not have any assemblage-based biological criteria to assess lake health. Two indices of biotic integrity exist for streams and rivers: one based on fish and one on macroinvertebrates. The WDNR has invested in studying macrophyte communities in lakes across the state, and a rich data set exists. More work is needed to develop biological criteria based on macrophytes for different types of lakes. Compared to other biological endpoints (e.g. fish, benthic macroinvertebrates, zooplankton), macrophytes have the greatest potential for developing lake biological criteria. This could be guidance and/or eventually code.
	Bacteria		The pathogen indicator standard applicable to Wisconsin lakes, rivers, and streams is currently fecal coliform*. U.S. EPA revised their recreational water quality criteria in October 2012 to use E. coli and/or Enterococci as the indicator organisms. Wisconsin will need to pursue revisions to NR 102 to update the criteria for surface water pathogen indicators and may possibly need to also revise NR 210 as it relates to disinfection of wastewater. *In the open waters of the Great Lakes, Wisconsin's standards and the applicable criteria is E. coli. Related Rule(s): NR 102 Water quality standards for Wisconsin surface waters, NR 210 Sewage treatment works.
	Aquatic Macrophyte Biotic Index for Lakes		WDNR is proposing codification of water quality criteria for a suite of biological metrics (or "biocriteria") that are used to assess waterbodies and determine impairments. A scope statement for a biological criteria rulemaking package has been submitted to the Governor's office and is awaiting approval to begin rulemaking. Biological criteria set expectations for such metrics as aquatic communities of fish, insects, plants, and algae. These criteria represent critical assessment benchmarks for determining the health of the state's streams, rivers, and lakes. Biocriteria would be used to determine whether a waterbody is meeting its designated uses, or should be placed on the impaired waters list (303(d) list). Codified biocriteria could also be used as confirmation of impairment for waterbodies that exceed nutrient criteria. Within certain limits appropriate to each waterbody type, waterbodies exceeding nutrient criteria but not exhibiting biological or recreational use impairment would not be considered impaired for purposes of 303(d) listing. Related Rule(s): NR 102 Water quality standards for Wisconsin surface waters