WDNR Update
Government Affairs - 2016

Brian Weigel
Water Evaluation Section Chief
Mission

To protect and enhance our natural resources: our air, land and water; our wildlife, fish and forests and the ecosystems that sustain all life. To provide a healthy, sustainable environment and a full range of outdoor opportunities. To ensure the right of all people to use and enjoy these resources in their work and leisure. To work with people to understand each other’s views and to carry out the public will. And in this partnership consider the future and generation to follow.

Vision

We excel at protecting and managing natural resources while supporting the economy and the well being of our citizenry.

Values

Integrity • Professionalism
Collaboration • Respect
Customer Service
Number of DNR FTE Positions
1995 to 2015

Year
Number of Positions
3,114 2,641
Alignment Goals

1. Mission, Vision, Values, and One DNR approach.
2. Increase alignment.
3. Improved workload management.
4. Increase efficiency.
5. Improve consistency.
6. Increase integration and collaboration.
7. Increase accountability.
8. Increase financial flexibility and sharing of resources.
9. Maximize outcomes we can produce.
Alignment Process

- **Launch Alignment Effort**
  - July 2015

- **Implement Interim Structure Changes**
  - July - August 2015

- **Conduct Core Work Analysis (CWA)**
  - August - December 2015

- **Finalize Core Priorities and Develop Detailed Organizational Structure**
  - March – May 2016

- **Solicit Feedback**
  - February 2016 & Beyond

- **Finalize Alignment Decisions**
  - By June 30, 2016
Reason for Action

- EPA letter July 2011 detailing 75 inconsistencies between state & federal rules.
- Many minor rule differences - not large programmatic changes
- DNR initiated 8 administrative rule packages

6 Rule Packages Adopted as of 1/27/2016

- Rule Package 1 - SSO
- Rule Package 2 - Pretreatment Regulations
- Rule Package 3 - Intake Credits exclusion, BCC mixing zone phase out
- Rule Package 4 - Expression of Limits, WET reasonable potential
- Rule Package 6 - Permit Administrative procedures
- Rule Package 7 - Analytical methods

Rule Packages Remaining

- Rule Package 5 - TBEL’s, BMP limits
  - status: draft, soon open for comments on economic impact
- Rule Package 8 - Stormwater issues
  - status: drafting scope statement
- Cooling water intake structures rule, Fed 316b (WY-19-14)
  - status: draft rule language, soon open for comments on economic impact

Status of the issues

Addressed by rules or AGO statement: 51
  (21 adopted Jan 2016 still need legislative approval)
Addressed by current Rule Packages: 18
Need statutory change: 6
Possible MOU: 1
New expedited procedure: 27 ½ months
Rule Package 5
Contact: Jason Knutson

- Response to EPA 75 Issues Letter (July 2011)
  7. NSPS (New Source Performance Standards)
  11. Generic Reasonable Potential
  13. BMP Authority (abate pollution when limits not feasible)
  14. Antibacksliding
  15. General Compliance Schedule Requirements
  20. Adjustment to TBELs
  29. Solid Waste Leachate
  61. Application Requirements

http://dnr.wi.gov/about/NRB/2012/June/06-12-3C6.pdf
316(b) – Cooling Water Intake Structures Rule
Contact: Jason Knutson

- Drafting NR 111 and guidance
  - Consistent with Fed regs:

- Requires Best Technology Available (BTA) for reducing:
  - Impingement Mortality
    - (7 options)
  - Entrainment
    - (Best Professional Judgment)

- Facilities >125 MGD document I/E


http://dnr.wi.gov/About/NRB/2015/April/04-15-3C1.pdf
Whole Effluent Toxicity (WET), NR 106

Contact: Kari Fleming

• One of the “75 issues” (in rule package 4)

• Proposed changes include:
  
  • Expression of WET limits:
    • Acute limits are daily maximum (same as now)
    • Chronic limits are monthly average (daily max. now)
  
  • WET Reasonable Potential (RP)
    • Current regs require a WET limit when repeated failures (>30% failure rate) have occurred
    • Federal regs/proposed NR 106 RP requires a WET limit if any tests fail
Proposed WET Reasonable Potential

NR 106.08(6)(b)

Acute WET Reasonable Potential: \((TU_a \text{ effluent})(B) > 1.0\)

NOTE: If a “zone of initial dilution” (acute mixing zone or AMZ) was approved, use:
\((TU_a \text{ effluent}) (B) (AMZ) > 1.0\)

Chronic WET Reasonable Potential: \((TU_c \text{ effluent})(B)(IWC) > 1.0\)

Where:

**TUa/TUc effluent** = maximum calculated TU from the most sensitive species

**B** = Reasonable potential multiplication factor determined under par. (c)

**IWC** = instream waste concentration

NR 106.08(6)(d)

TUa and TUc values = 0 if toxicity is not-detected \((LC_{50}, IC_{25/50} \geq 100\%)\).
NR 106.08(5)(c) *Reasonable potential multiplication factor.* Converts the calculated effluent toxicity value to 95th percentile value.

1. **< 10 individual toxicity detects**, Table 4, & based on a CV = 0.6.
2. **> 10 individual toxicity detects**, Table 4, and based on a CV calculated as the standard deviation of the WET test endpoints (IC25, IC50 or LC50) divided by arithmetic mean of WET tests.

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Implementation of WET changes

- Federal Regulations/Proposed NR 106 do **NOT** change Toxicity Reduction Evaluation (TRE) or Monitoring Requirements
  - Need for TRE still determined case-by-case (i.e., after repeated failures)
  - Monitoring still determined case-by-case

- Guidance following rule development
  - Determine when a TRE is needed, & monitoring requirements
  - Shared with external stakeholders (21-d public comment period)

Each treatment works needs an operator certified in the new collection system subclass.

Voluntary certification for satellite sewerage systems.

Study guide/exam available November 2017

After exam is available and upon re-issuance of WPDES permit, operators have 5 years to obtain certification.

http://dnr.wi.gov/regulations/opcert/wastewater.html
## Levels of Certification

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<tr>
<th>Operator in Training</th>
<th>Basic</th>
<th>Advanced</th>
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<tr>
<td>Pass Basic General Exam + Basic Subclass Exam</td>
<td>One year of subclass specific experience</td>
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## Advanced Point System

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NR 149 Lab Certification Rule Revisions
Contact: Steve Geis, Rick Mealy

- Workgroup: LabCert program and Certification Standards Review Council
- Revised rule language; restructured for simplicity
- Removed “cap” from fee structure, will reduce fees for most WWTPs
- Expanded instrument calibration section
- Reverted to LOQ = 10/3 LOD model
- Re-focused QC to ensure that only things within the lab’s control (LCS) will affect a batch of samples
  - e.g., matrix spikes, which can provide info on a single sample matrix, but not on unrelated samples within a batch.
NR 149 Rule Revision Plan

• Public comment by mid-2016.
• Proposed adoption early 2017.
• Effective at new certification period
  • e.g., September 1, 2017?
• Anticipate no major impacts to smaller WWTP labs
  reduced fees
• Changes for large, commercial labs consistent with
  audit discussions
New and Proposed Air Program Rules
Contact: Kristin Hart, Gail Good

http://dnr.wi.gov/news/input/ProposedPermanent.html

AM-24-12 – Permit Streamlining Rule
• Clarify air permit rules NR 406 and 407
• New exemption for natural-minor sources and limited-use engines
• Eliminate renewal date for minor operation permits
• Effective December 1, 2015

AM-08-11 – Adoption of 1-hr SO2 and NOx
• Adopt National Ambient Air Quality Standards for sulfur dioxide and nitrogen oxides
• NRB approved rule August 12, 2015
• Not yet effective
New and Proposed Air Program Rules

AM-15-14 – Consistency Rules
• Change major source Air Permitting Rule for consistency with EPA rules
• Adopt of Ambient Air Increment for fine particulate matter
• Repeal outdated regs on stage 2 vapor recovery
• NRB adopted January 2016

AM-07-15 – Adoption of Annual PM2.5 Standard
• Adopt National Ambient Air Quality Standards for fine particulates
• Drafting economic impact analysis
Three inter-related rule packages:

1. **Designated Uses** — Update Aquatic Life Use categories
   - Correctly classify waters & apply correct criteria
   - Timely, efficient updates

2. **Biocriteria and Bioconfirmation of Phosphorus impairment**
   - Use biology to directly assess health of waterbodies
   - Protect “Excellent” waters; **allow for “Modified” waters** - lower quality naturally or due to uncontrollable factors
   - Delist waters exceeding phosphorus but with good biology

3. **Site-Specific Criteria for Phosphorus**
   - Allows dept. to account for variability
   - Some dischargers can maintain current limits/treatment
   - Sets standard process
Water Quality Standards Rules: Timeline

- **Jan 2016**: Draft rule language & Tech. Support Doc. complete
- **2017**: Begin External Advisory Committee (~ 9 mos.)
- **2018**: Public Hearing
  - Begin legislative process (~1.5 yrs.)
  - Promulgation 2018

**Designated Uses:**

**Biocriteria & Phos Bioconfirmation:**

**SSC:** https://health.wisconsin.gov/admrules/public/Rmo?nRmold=13683
Eligible Topics

1. Surface Water Quality standards

2. Guidance defining which water quality standards apply in specific cases

3. Guidance providing direction for implementing a water quality standard
**Group A: Currently in Progress**

- Aquatic Macrophyte Biotic Index for Lakes
- Biological Water Quality Criteria
- Mixing Zone Policy
- Phosphorus Assimilative-Capacity Modeling in the Great Lakes
- Phosphorus Implementation Guidance
- Phosphorus Site-Specific Criteria (SSC) Guidance and Rules Use Designations
- Variance Determination Procedure

**Group B: New Priorities for This Cycle**

- Antidegradation
- Recreational Water Quality Criteria
- Cyanobacterial Toxin and Cell Density Water Quality Criteria or Guidance
Group C: Insufficient WDNR Resources

- High priorities
- If resources become available then WDNR will work to address them.

- Ammonia Water Quality Criteria
- Chloride Water Quality Criteria
- Copper Water Quality Criteria
- Dissolved Oxygen Water Quality Criteria
- Floristic Quality Assessment Numeric Benchmarks for Wetlands
- Nearshore Great Lakes Area Algae Standard
- Pesticides and Carbaryl Water Quality Criteria
- Sulfate Water Quality Criteria
- Total Suspended Solids (TSS) or Suspended Sediment Water Quality Criteria or Guidance
- Water Quality Criteria Frequency and Duration Requirements
- Wild Rice Designated Use
Group D: Not Priorities for this Cycle

- Acrolein Water Quality Criteria
- Cadmium Water Quality Criteria
- Endrin Water Quality Criteria
- Phenol Water Quality Criteria
- Selenium Water Quality Criteria

Group E: Barrier to progress

- Arsenic Water Quality Criteria
- Nitrogen Water Quality Criteria
- Outstanding & Exceptional Resource Waters Process for Determination and List Revision
- Unregulated Pollutants Water Quality Criteria Development
- Variance Waters List Revision
Recreational Water Quality Criteria (RWQC)

Contact: Sarah Yang

- Recreational water quality criteria are intended to protect people from waterborne illness caused by fecal contamination.
- These criteria are used to establish WPDES permit limits, make impaired waters decisions, develop TMDLs, and support the beach notification program.
Changes considered:

- Revise criterion
  - Change indicator from fecal coliform to *E. coli*
  - Select risk level
  - Add frequency and duration components
- Develop UAA process for recreational use
- Process for the development of site-specific criteria

Benefits:

- Consistent with federal regulations
- Maintain eligibility for BEACH Act grant funding
- Consistency and efficiency in permits and TMDLs
- Avoid over-promulgation by EPA

http://dnr.wi.gov/news/input/ProposedPermanent.html
Revisions to Antidegradation Procedures

Contact: Sarah Yang

- **Objectives:**
  - Consistent with federal regulations
  - Clarify when an antidegradation review is required
  - Establish an effective, transparent system for conducting antidegradation reviews

- **Benefits:**
  - Specify public participation requirements
  - Revise requirements for conducting an “analysis of alternatives” to determine the necessity for lowering water quality
  - Evaluate threshold defining “significant lowering of water quality”
  - Define “important social and economic development”
  - Describe how antidegrad applies to GPs, stormwater, & CAFOs
Water Quality Report to Congress

Contact: Ashley Beranek

- Integrated Report includes Impaired Waters List (303(d)) and Statewide condition assessment (303(b))
  - Report due to EPA by 01 April 2016

- ~900 individual waterbodies listed as impaired because they do not meet water quality standards.

- Background, updates, and search tools:

Webinar: