



Water Quality Standards  
Stakeholder Meeting #1

April 23, 2019, 1:00 - 3:00 pm  
Linton Room (4011)

Meeting Summary

1. Welcome and Introduction ..... Andrew Edwards
2. 2019 Triennial Review Update ..... Andrew Edwards
  - A. Discussion began related to the 2019 Triennial Review timeline. The following scheduled dates were noted:
    - (1) Notice of Drafting February 22, 2019
    - (2) Notice of Proposed Regulation by August 2019
    - (3) NPR followed by additional stakeholder meeting in September 2019
    - (4) Notice of Final Regulation by November 2019
    - (5) NFR to Legislature by January 2020
  - B. All of the stakeholder comments that had already been submitted were highlighted. Those comments include:
    - (1) Narrative stream flow standards for aquatic life and recreation uses
    - (2) Numeric nutrient criteria for streams and estuaries
    - (3) Bacteria limits: monthly/weekly geometric mean instead of daily max
    - (4) Case specific mixing zones where mercury impairment is based on fish consumption advisories
    - (5) Defer or waive reporting requirements during natural disasters
    - (6) Clarification to numeric nutrient criteria for lakes to seasonal geometric means
    - (7) Human health criteria update

3. Questions and Comments .....Stakeholders

A. Following the 2019 Triennial Review Update discussion was opened to stakeholders for questions and comments. The following topics were discussed:

- (1) Public Comments - A question was raised about submitting comments even though the public comment period for the Notice of Drafting had ended. Clarification was provided that the Department would receive comments given at the Stakeholder Meetings and include those comments in the public record. Stakeholders were encouraged to submit any comments to the Standards Coordinator in writing.
- (2) Narrative Flow Standards - Questions regarding the previous comment on narrative stream flow standards were raised. The inquiry was specific to the request for the Department to convene a stakeholder group to develop these standards. A response was given to explain the Department has not convened a collaborative stakeholder group to develop narrative stream flow standards. Discussion followed regarding EPA's recommendations for narrative and numeric flow standards identifying supporting documents for developing such standards. A follow up question was asked regarding whether other States have adopted narrative flow standards. A number of States have adopted such language into their water quality standards.
- (3) Water Quality Standards Rule - A question was asked related to the Water Quality Standards Rule, which requires the Department to review and assess any new or revised criteria that EPA has published dating back to 2000 that have not been adopted into our State's water quality standards. The question specifically asked for some documentation or a list to become available for the public to review, which comprises the criteria that must be assessed. An explanation was given that no such list currently exists, however one would be created and added to the 2019 Triennial Review webpage.
- (4) Notice of Proposed Regulation Formatting - A general question was asked regarding the regulatory revision process including how and when revisions would be made, and how would stakeholders be able to know what specific language was proposed in the regulatory revisions. An

explanation of the proposed revisions formatting was given to identify that any changes to the regulation would be prepared using a strikeout/underline format. This formatted proposed regulation will first be available to stakeholders in the Notice of Proposed Regulation which is scheduled to be published in August 2019.

- (5) Numeric Nutrient Criteria - Questions were asked regarding the development status of numeric nutrient criteria for streams and estuaries. A response was provided, explaining that development of numeric nutrient criteria for estuaries is ongoing, though it will not be ready for adoption into the State's water quality standards during the 2019 Triennial Review. Further, once the Department has developed numeric nutrient criteria for estuaries the priority will shift to begin development of numeric nutrient criteria for freshwater rivers and streams. Further discussion followed regarding the specific timeline anticipated for the adoption of numeric nutrient criteria for estuaries and streams including questions related to the most recent version of the Department's adoption plan for numeric nutrient criteria.
- (6) Human Health Criteria - It was asked if the Department anticipated adopting the revised human health criteria, which EPA published in 2015. A response was given to indicate that the Department does not anticipate adopting the revised human health criteria during the 2019 Triennial Review.
- (7) State Rulemaking Process - A question was raised regarding the regulatory revision process and why a Notice of Drafting was published for both Regulation 61-68 and Regulation 61-69. An explanation was provided for the purpose of proceeding with two simultaneous regulatory revisions instead of one combined regulatory revision for both Regulations. The Department elected to split the two regulatory revisions in order to allow flexibility to proceed with the proposed revisions. For example, if the proposed revisions to Regulation 61-68 be held for some reason, then the proposed revisions to Regulation 61-69 would not necessarily be held and could still proceed through the rulemaking process.
- (8) Reclassifications - A general question was raised related to Regulation 61-69 to inquire if any requests for surface water reclassification had been submitted to the Department. It was stated that the Department has not

received any request for surface water reclassification during the 2019 Triennial Review, and that the scope of proposed revisions to Regulation 61-69 focuses on clarifications and corrections to the Regulation.

- (9) Natural Disasters - Questions were raised related to the comment, which was submitted previously to the Department requesting an option to defer or waive reporting requirements during natural disasters. It was mentioned that perhaps changes to reporting requirements may be more appropriate to include in Regulation 61-9, Water Pollution Control Permits, rather than in Regulation 61-68.
  
- (10) Stakeholder Involvement - Concerns were raised regarding the timing of stakeholder involvement during the 2019 Triennial Review, noting that the Department has requested and received comments, but stakeholders may not be able to see the proposed revisions until it is too late in the rulemaking process. The State's rulemaking process was discussed to explain the proposed regulatory revisions are scheduled to become available for stakeholders to review following the August 2019 Board Meeting when the Notice of Proposed Regulation is published in the State Register. It was also mentioned that the Department would review and consider providing responses to comments received prior to the published Notice of Proposed Regulation.