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Subject: NR 151 Status Update

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Members of the TAC for the NR 151 Groundwater Nitrate Targeted Performance Standard:

The department has concluded work on the statement of scope WT-19-19 -- Nitrate targeted performance standard.

The statutory process and associated firm timelines established by the Legislature for rule-making do not allow adequate time for the department to complete this proposed rule.

In early 2019, DNR proposed a scope statement to consider targeted performance standards for nitrate in areas susceptible to nitrate leaching to groundwater. That scope statement was approved by the Governor and the Natural Resources Board in December 2019. From February 2020 – October 2020, we held meetings with the TAC. On March 8, 2021, DNR public noticed Draft Economic Impact Analysis for public comment. We heard substantial comments on the potential costs of compliance for agricultural producers and on the costs of not acting on the nitrate pollution issue in terms of public health and costs for treating public and private water supplies.

Through the rule making process, we worked with you to consider the science to identify areas of the state that are highly vulnerable to groundwater contamination and areas that have documented nitrate exceedances; to craft language that reiterated the goal of preventing nitrate from exceeding the nitrate groundwater standard (10mg/l) through a performance standard and nitrate leaching limit; and to outline agricultural practices that can help achieve safe drinking water.

We have learned a lot during the rule process, especially on the science, tools, health impacts, and the need for a systems approach to prevent excess nitrate leaching. We considered practices to avoid applying manure or nitrogen fertilizer on vulnerable soils during fall when there is no growing crop available to lock up the nutrients. Our Nitrate TPS website includes presentations on existing science and tools: <https://dnr.wisconsin.gov/topic/nonpoint/nr151nitrate.html>, and our Nitrate Webinar Series offers new information on nitrate solutions <https://dnr.wisconsin.gov/topic/Nonpoint>.

As you know, the nonpoint source performance standards are addressed in section 281.16 of the Wis. Statutes and in Chapter NR 151, Wis. Adm. Code. Chapter NR 151 defines the goal we are trying to achieve, establishing performance standards for agriculture and municipalities to protect human health and water quality, and defines cost-share requirements for implementation. Subsection NR151.004 allows for targeted standards where statewide standards are insufficient.

We extend our gratitude to each member of the Technical Advisory Committee. Thank you for your time, energy, and contributions to this process. We will continue to work with you on the science and on land management approaches and practices that can help us address Wisconsin's nitrate/groundwater/safe drinking water issues.

Sincerely,
Chris

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