Public Comments on the Draft 2026 WisCALM

The public comment period for the Draft 2026 Wisconsin Consolidated Assessment and Listing Methodology was held March 26th – April 24th, 2025. Comments are reproduced here in their entirety. WDNR responded to all comments received on July 30th, 2025, these responses can be found here.

Shania Nordby, Environmental Director, Red Cliff Band of Lake Superior Chippewa

From: Shania Nordby <Shania.Nordby@redcliff-nsn.gov>
Sent: Wednesday, April 16, 2025 5:11 PM
To: Chenevert, Justin M - DNR
Subject: WisCALM Comments

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Greetings Justin,

I had some Red Cliff staff review the draft WisCALM and there were some comments regarding the lack of acknowledgement given to Tribes or Treaties throughout the document. There is also no indication that the WiDNR Tribal Liaison was involved in the drafting or reviewing of the document. Lastly, regarding the standards for the 303(d) waters and if the "use" associated adequately considers Tribal harvesters and Tribal Treaty Rights.

Please let me know if you have any questions.

Shania

Shania Nordby
Environmental Director
Red Cliff Environmental Department
Treaty and Natural Resources Division
Red Cliff Band of Lake Superior Chippewa
88455 Pike Road
Bayfield, WI 54814

Southeastern Wisconsin Regional Planning Commission

Other Considerations for Impairment Listing Based on Macrophyte Health

The Mac-Gen model was developed using aquatic plant data from 983 point-intercept surveys conducted across Wisconsin between 2005 and 2012. [1]As of May 2025, that database has grown to 2,994 point-intercept surveys and likely includes much more data for plant species that were previously not considered by the model, such as the relatively novel invasive species starry stonewort (*Nitellopsis obtusa*).[2] To ensure that the impairing listing methodology is up to date, the WDNR should consider updating the Mac-Gen model periodically with the updated aquatic plant dataset to include previously unconsidered species, such as starry stonewort, as well as reevaluate the tolerances for already considered species.

The WDNR should consider the interplay between an impairment listing based on the Mac-Gen model and chemical herbicide applications. Considering lakes with recent herbicide applications as ineligible for evaluation may incentivize the use of herbicides as a means to avoid an impairment listing on lakes with clearly degraded aquatic plant communities. Additionally, it appears that any chemical application, regardless of application size relative to the lake surface area, renders a lake ineligible for consideration. Consequently, some very large lakes within southeastern Wisconsin, such as Geneva Lake, are currently "Not Attaining" based on this model and may be designated as impaired, but are presumably considered ineligible for assessment based on localized chemical applications that likely do not affect the lake-wide aquatic plant community.[3] The WDNR could also consider how this chemical application ineligibility affects consideration of new aquatic plant data. For example, if a lake listed as impaired based on the Mac-Gen model begins to utilize chemical applications, would subsequent aquatic plant data be ineligible for consideration and thus locking the lake into its impairment listing even if the lake would otherwise be "Attaining"?

Commission staff agree with the results of the macrophyte bioassessment model in many cases. However, there are likely several other lakes in the state where the model results significantly differ from other commonly used aquatic plant metrics. The WDNR should consider incorporating metrics such as species richness, average number of native species per site shallower than maximum depth, floristic quality index and/or mean C value, and the percentage of littoral points with an invasive species present, in addition to this model for waterbody assessments to help evaluate these edge cases.[4] These metrics could be considered with respect to the lake morphology, type (e.g., drainage, seepage, impoundment), region of the state, and water alkalinity or pH (when known) as these factors can help determine which aquatic plant species may occur in

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[1] *Mikulyuk et al., 2017,* op. cit.

[2] *The total number of surveys is presented on the splash page of the WDNR Aquatic Plant Explorer tool.*

[3] *See 2024 permit application for a chemical treatment affecting 2.0 acres in a relatively isolated lagoon of the 5,262-acre Geneva Lake. https://permits.dnr.wi.gov/water/SitePages/DocSetViewDet.aspx?DocSet=AP-IP-SE-2024-65-X02-16T11-46-38*

[4] *The Commission used a similar approach when evaluating aquatic plant communities as part of the updated Regional Natural Areas plan. Turtle Lake scored above average for southeastern Wisconsin lakes with aquatic plant point-intercept data using this approach. See https://www.sewrpc.org/Regional-Planning/Natural-Areas for more information.*

that lake in undisturbed conditions.[5,6,7] Utilizing these other metrics in addition to the Mac-Gen model results may provide a more comprehensive evaluation of the aquatic plant community and remove challenges stemming from lake ineligibility due to herbicide applications and/or status as an impoundment.

[5] *Vestergaard, O. and Sand-Jensen, K. "Alkalinity and Trophic State Regulate Aquatic Plant Distribution in Danish Lakes,"* Aquatic Botany *67, 2000*.
[6] *Mikulyuk et al., 2017,* op. cit.
[7] *Lacoul, P. and B. Freedman, "Environmental Influences on Aquatic Plants in Freshwater Ecosystems,"* Environmental Reviews *14: 89-136*, *2006*.

Wendy Drake, Environmental Protection Agency (EPA) Region V

1. Background, p. 1: Should 2024 be changed to 2026 in, "The methodology for conducting general andimpairment assessments is outlined, and updated for 2024, in this WisCALM guidance document"?
2. Section 2.3. Water quality condition categories and lists, Table 3, p. 8: In the category 5W (EPA 5r) row, please consider making the edits in tracked changes based on the comments below.
    a. These are not all referring to Nine Key Element (9KE) Plans-therefore, the colon should be moved to after "following" and then the different types of plans should be listed.
    b. In addition, EPA doesn't approve all these types of plans and may not have reviewed all these types of plans either (e.g., 9KE plans). In the case of 9KE plans, the official term for a reviewed plan is acceptance, not approval, unless it as an alternative 9KE plan.
    c. Can "CWA Section 319-funded watershed plans" be further defined? Will any 9KE Plan meet this requirement, regardless of EPA staff review and receipt of 319 funding? If so, "CWA Section 319-funded watershed plans" needs to either be removed for being duplicative or should be further defined.
    d. The 2024 IR memo indicates that EPA is replacing the term "Alternative Restoration Plan" with "Advance Restoration Plan" moving forward (2024 IR memo, p. 9). EPA has recommended that states discontinue the use of this term to address the potential misconception that these plans are alternatives to a TMDL. In addition, EPA does not approve ARPs: "Because waters for which ARPs are pursued still remain on the CWA 303(d) list, EPA will not take action to approve or disapprove a state's, territory's, or authorized tribe's ARP under CWA 303(d)" (2016 IR memo, p. 7).
3. Section 3.2. Use of monitoring data from other sources, p. 12: This sentence could also reference EPA's QAPP Standard (https://www.epa.gov/system/files/documents/2024-04/quality_assurance project plan standard.pdf), "Data submitters outside of WDNR are referred to EPA's site for questions on quality assurance project plans at https://www.epa.gov/quality."
4. Section 8. Public health and welfare use assessment, p. 56:
    a. The main concern about the methodology for determining Public Water Supply Use support is the lack of available information to routinely make assessment decisions. As we said in the past, WDNR should aim to improve its monitoring information to support decisions using this methodology or consider changes to the methodology that could allow for use attainment decisions to occur with other readily available data.
        i. We do not see any drinking water use assessments for the 2024 cycle in ATTAINS.
    b. Why is only PFOA used as an indicator for the PWS Use assessment and not PFOS?
5. Section 9. Wildlife use assessment, Table 34, p. 61: Table 34 includes only four thresholds (see screenshot below), but the text of NR 105.07(1) includes a clarification that may be important to mention as a footnote: "(a) For any substance not shown in Table 7, the wildlife criterion (WC) is the lower of the available mammalian or avian wildlife values (WVs) calculated pursuant to sub. (2)." Subpart 2 includes directions for other thresholds.

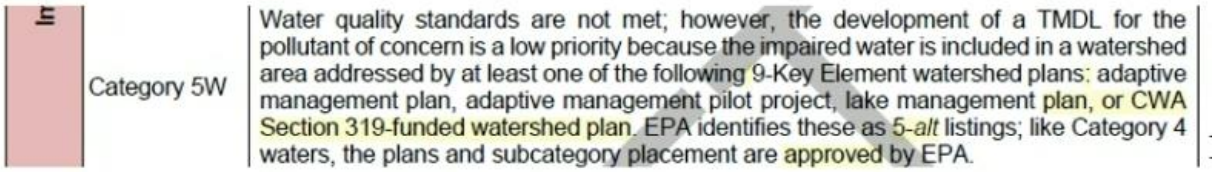
6. Section 10.1. Independent applicability and tools to resolve data conflicts, p. 62: Should the following edit be made to this sentence, "A decision matrix describes the process for net-making attainment decisions using independent application"?
7. Section 10.1.4. Hierarchy of Indicators, p. 63: Regarding this paragraph, "When assessing waters against the applicable phosphorus criteria, biological data are used in combination with phosphorus data to determine whether the AL use is currently impaired. If biological impairment is observed, the water is placed in the standard impaired waters category (5A). If the water exceeds phosphorus criteria but biological impairment is not observed, the water is placed in an impaired water subcategory (5P) that is given a lower priority for management actions until biological impairment is confirmed," the last sentence appears to conflict with Table 18 on pp. 40 and 90 (screenshot below) that shows when the TP criteria are exceeded (less than overwhelming exceedance) and the phosphorus response indicators shows that none indicate impairment, the category is 2 and not 5P. Further clarification in section 10.1.4 is warranted.

Table 18. Listing determinations for phosphorus and phosphorus response indicators based on attainment.

	Phosphorus Response Indicators	Overall Assessment Result	Pollutant	Observed Effect	EPA Listing Category
Exceeds TP criteria (less than overwhelming exceedance)	One or more indicate impairment	Impaired	TP	Degraded Biology*	Category 5A
	None indicate impairment	Not Impaired	NA	NA	Category 2
	Insufficient Information	Impaired	TP	NA	Category 5P
Exceeds TP criteria by an overwhelming amount	None needed	Impaired	TP	NA or Degraded Biology*	Category 5A

8. Section 10.6.3. EPA approved TMDL or alternative restoration plan, p. 68: See above comment 2.d-EPA recommends replacing the word "Alternative Restoration Plan" with "Advance Restoration Plan."
9. Section 11. Integrated report listing categorization, Table 38, p. 70 and Appendix A. Quick Reference Section, A.3 EPA five-part categorization, p. 89: We recommend making the same changes to the tables on pp. 70 and 89 as suggested above for Table 3 (comment 2). In addition, we recommend changing references from "5-alt" to "5r" per EPA's 2024 IR

memo. See screenshot below.



5r	Category 5W	Water quality standards are not met; however, the development of a TMDL for the pollutant of concern is a low priority because the impaired water is included in a watershed area addressed by at least one of the following 9-Key Element watershed plans: adaptive management plan, adaptive management pilot project, lake management plan, or CWA Section 319-funded watershed plan. EPA identifies these as 5-*alt* listings; like Category 4 waters, the plans and subcategory placement are approved by EPA.

10. Section 11.2. Priority ranking for TMDL development, p. 71:
    a. The link to Wisconsin's "Water Quality Restoration and Protection Prioritization Framework" is to a 2015 document. Also, does any of the text in this section need to be updated based on the new 2022-2032 prioritization framework?
    b. We recommend changing "alternative" to "advance" in this sentence (per comments 2.d and 8 above), "It is also possible that an ~~alternative~~-advance restoration plan is in place for the listing, making it a lower priority for TMDL development."
    c. Consider updating the following sentence with these tracked changes or something similar: "The TMDLs outlined in the original prioritization framework were completed by 2022; a new version of the prioritization framework was ~~will be~~ available in late 2024."
11. Section 11.3. Alternative restoration plans, p. 72: These comments are similar to comments 2, 8, and 9 above.
    a. Consider changing this section heading to "Advance restoration plans."
    b. Consider changing references from "5-alt" to "5r" per the 2024 IR memo.
12. Section 11.3.1. 9-key element plans, p. 73:
    a. Related to above comments, regarding the sentence, "Alternatives to a TMDL can be prepared for waters on the Impaired Waters List," consider replacing the "alternatives to a TMDL" with "Advance restoration plans."
    b. Regarding these references to EPA-approved plans, please revise, because EPA does not approve these plans, "These plans are approved by the EPA. Impairment listings addressed by an EPA approved 9-Key Element plan will be moved to Category 5W … " We recommend replacing the word "approved" with "accepted."
13. Section 11.3.2. Adaptive management plans (AMPs), p. 73: As mentioned above, consider replacing reference to EPA "5-alt" with "5r" in the second paragraph.