

December 13, 2022

The Honorable Rick Hansen
Chair, House Environment & Natural Resources
Policy and Finance Division
407 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155

The Honorable Patricia Torres Ray
Ranking Minority Member, Environment and
Natural Resources Finance Committee
95 University Avenue W.
2225 Minnesota Senate Bldg.
Saint Paul, MN 55155

The Honorable Josh Heintzeman
Republican Lead, House Environment & Natural
Resources Finance and Policy Committee
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The Honorable Carrie Ruud
Chair, Senate Environment and Natural
Resources Policy and Legacy Finance Committee
95 University Avenue W.
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The Honorable Bill Ingebrigtsen
Chair, Senate Environment and Natural
Resources Finance Committee
95 University Avenue W.
3207 Minnesota Senate Bldg.
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The Honorable Foug Hawj
Ranking Minority Member, Senate Environment
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Finance Committee
95 University Avenue W.
2201 Minnesota Senate Bldg.
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RE: Inventory of Water Quality Standards

Dear Committee Chairs and Ranking Minority Members:

In keeping with the requirements of Minn Stat. 115.035 paragraph (g), the enclosed report - MPCA's Inventory of Water Quality Standards- identifies the water quality standards development work in progress in 2022, the lead agency scientist for each development effort, and opportunities for public input. The report's purpose is to share information about the MPCA's water quality standards development work with the public.

The Inventory reflects the priorities identified via the every three years' review of Minnesota's water quality standards needs, otherwise known as the Triennial Standards Review (TSR). The most recent TSR was completed in June 2021, and resulted in a new water quality standards work plan for the next three years, which is available [here](#).

Committee Chairs and Ranking Minority Members
Inventory of Water Quality Standards
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December 13, 2022

Sincerely,

Tom Johnson

This document has been electronically signed

Tom Johnson
Government Relations Director
Commissioner's Office

TJ:CO:cbg

Inventory of water quality standards projects, 2021 – 2023, with status as of November 2022

New or revised water quality standards (WQS) and amendments in rulemaking:

Group 1: Current and active WQS projects

| Subgroup 1A | Topic | Status |
|---------------|---|--|
| In Rulemaking | <p>Revisions to aquatic life and recreation use Classes 2A (cold waters) and 2B (cool and warm waters) and Class 7 (limited resource value waters).</p> <p>https://www.pca.state.mn.us/water/2021-amendments-water-quality-standards-use-classification-2</p> | <p>This revision makes updates and corrections to Class 2 (aquatic life and recreation) and Class 7 (limited resource value waters) beneficial use designations or classifications for streams and lakes. These corrections and updates are mostly related to implementation of the Tiered Aquatic Life Use (TALU) framework, which added new Class 2 beneficial use tiers for aquatic life. In addition, cold (Class 2A) and warm/cool (Class 2Bd and 2B) water use designations will be reviewed and corrected, if necessary, as part of this rulemaking.</p> <p>A request for public comment (RFC) was published in spring 2021 that closed May 7, 2021. The technical review is complete, and the draft technical support document (TSD) is available on the rule webpage. Minnesota Pollution Control Agency (MPCA) plans to publish a Notice of Intent to Adopt Rules (NOI) on December 12, 2022. The NOI includes an invitation for public comment.</p> <p>Lead scientist: Will Bouchard</p> |
| In Rulemaking | <p>Revisions to Class 1 (domestic consumption) use designations and associated WQS for surface water and groundwater.</p> <p>https://www.pca.state.mn.us/water/amendments-water-quality-standards-use-classification-1</p> | <p>These revisions are intended to provide much needed updates to Minnesota rules applying to Class 1 waters (Minn. R. ch. 7050.0221), which have changed very little since first adopted in 1967. Key revisions include adopting more appropriate WQS to protect the domestic consumption use; and reviewing and updating Class 1 designated waters, including the addition of surface waters that impact the quality of groundwater. Other revisions are focused on addressing ambiguities, inconsistencies, and gaps in Minn. R. chs. 7050 (Waters of the State), 7052 (Lake Superior Basin Water Standards) 7053 (State Waters Discharge Restrictions) and 7060</p> |

| | | |
|---------------|---|--|
| | | <p>(Underground Waters), as well as Minn. Stat. 103H (aka the 1989 Groundwater Protection Act).</p> <p>MPCA published an RFC in 2021 to provide more detail regarding the revisions under consideration and obtain feedback from the public on these issues. The comments received are available on the rule webpage. MPCA plans to publish a second RFC and draft TSD in spring 2023.</p> <p>Lead scientists: Doug Hansen, Meghan Hemken and Angela Preimesberger</p> |
| In Rulemaking | <p>Revision of numeric WQS for protection of aquatic life based on EPA 304(a) Ambient Water Quality Criteria for ammonia.</p> <p>https://www.pca.state.mn.us/get-engaged/ammonia-water-quality-standard</p> | <p>This revision will update Minnesota’s existing WQS for ammonia by incorporating current science. The U.S. Environmental Protection Agency’s (EPA’s) national recommended ambient water quality criteria for ammonia will be adopted as part of this revision (EPA, 2013).</p> <p>MPCA published an RFC on August 1, 2022, that was open through September 15, 2022. The RFC and comments received are available on the rule webpage.</p> <p>MPCA is currently working to develop the Statement of Need and Reasonableness (SONAR). MPCA anticipates publishing a NOI in spring or summer 2023.</p> <p>Lead scientist: Robert Dietz</p> |

| Group 1: Current and active WQS projects | | |
|---|---|---|
| Subgroup 1B | Topic | Status |
| Technical review/Pre-rulemaking development | Revisions to lake eutrophication WQS . | <p>This revision potentially includes several elements needed to update and modernize the WQS for lakes. They include: 1) revising the northern lake eutrophication standards by adding standards for a shallow lake type, 2) reviewing protections for cold water fish species including lake trout, lake whitefish, and cisco and developing standards where needed, 3) review and designation of cold water lakes, 4) adoption of a TALU framework for lakes, and 5) minor corrections and housekeeping revisions.</p> <p>An RFC is expected to be published for this rulemaking in late 2022 or early 2023.</p> <p>Lead scientist: Will Bouchard</p> |

Descriptions for each group and subgroup are on page 6.

New or revised WQS and amendments that are priorities to develop 2021 to 2023:

Group 2: In technical development

| Subgroup 2A | Topic | Status |
|-----------------------------------|---|--|
| Technical development | Revision of numeric WQS for protection of aquatic life for aluminum, copper and cadmium . | EPA 304(a) Ambient Water Quality Criteria are available for aluminum (2018), cadmium (2016) and copper (2007). MPCA plans to revise existing WQS for these elements using EPA's updated criteria to maintain currency with newer science. This work will commence as staff are available. Lead scientist: To be determined (TBD) |
| Subgroup 2B | Topic | Status |
| Technical information outstanding | Revisions of numeric WQS for protection of aquatic life for chloride . | EPA is working to develop draft criteria for chloride and sulfate (combined), or potentially, a more complex ion criteria that would include chloride, sulfate, and other major ions. In 2022, EPA continued its toxicity and modeling work in support of this criteria; EPA anticipates producing a draft criteria prior to the end of calendar year 2023. Lead scientist: TBD |
| Subgroup 2B | Topic | Status |
| Technical information outstanding | Additions of numeric WQS for protection of aquatic life for sulfate . | EPA is working to develop draft criteria for chloride and sulfate (combined), or potentially, a more complex ion criteria that would include chloride, sulfate, and other major ions. In 2022, EPA continued its toxicity and modeling work in support of the criteria; at this time, EPA anticipates producing a draft criteria prior to the end of calendar year 2023. Lead scientist: TBD |

Group 3: Tracking and evaluation

| Group 3 | Topic | Status |
|-------------------------|---|--|
| Tracking and evaluation | Revisions to numeric WQS for total suspended solids (TSS) to protect aquatic life. | This revision is under consideration to address a potential gap in the existing TSS WQS, which may not appropriately consider Minnesota rivers that have naturally high TSS and also high-quality biological communities. Lead scientist: Will Bouchard |
| Tracking and evaluation | Addition of numeric WQS for perfluoro-octane sulfonate (PFOS) in fish tissue , employing updated human-health based WQS methods (these methods were adopted into Minn. R. chs. 7050 and 7052 on March 16, 2015). | MPCA expects to develop a WQS for PFOS in fish tissue to address the increasing number of water bodies across the state in which fish have been impacted by PFOS. Currently, updated site-specific criteria for PFOS in fish tissue are available for certain water bodies in the Twin Cities Metro Area. For more information about MPCA's approach to addressing per - and |

New or revised WQS and amendments that are priorities to develop 2021 to 2023:

| | | |
|-------------------------|--|--|
| | | <p>polyfluoroalkyl substances (PFAS), see: the PFAS Blueprint and https://www.pca.state.mn.us/waste/water-quality-criteria-development-pfas.</p> <p>Lead scientist: Angela Preimesberger</p> |
| Tracking and evaluation | <p>Addition of numeric WQS for protection of aquatic life for clothianidin and imidacloprid.</p> | <p>The Minnesota Department of Agriculture (MDA) recently named clothianidin and imidacloprid as pesticides of concern in surface water. These pesticides were detected at concentrations of concern to aquatic life in rivers and streams relative to a water quality reference value (i.e., EPA benchmark values). Minnesota does not have WQS for these pesticides.</p> <p>Lead scientist: Phil Monson</p> |

Descriptions for each group and subgroup are on page 6.

Other WQS projects:

Group 4: Other WQS projects

| Group 4 | Topic | Status |
|-----------------------|---|---|
| Intermittent activity | Updates to the list of outstanding resource value waters in Minn. R. 7050.00335. | Review of outstanding resource value waters is conducted on an as needed basis. Lead scientist: TBD |
| Intermittent activity | Review of limited resource value waters (Class 7). | Review of Class 7 waters is conducted on an as needed basis. Lead scientist: Will Bouchard |
| On hold | Addition of numeric WQS for protection of aquatic life for nitrate | <p>Technical development for this WQS resulted in a draft TSD that is available for review (https://www.pca.state.mn.us/sites/default/files/wq-s6-13.pdf). However, the MPCA has decided not to proceed with adoption at this time. MPCA, in coordination with its partners, is pursuing a holistic, step-wise approach to help reduce nitrogen levels statewide prior to adopting a new nitrate aquatic life toxicity water quality standard. This includes:</p> <ol style="list-style-type: none"> 1) Developing a detailed Wastewater Nitrogen Reduction Strategy with targeted actions to reduce nitrogen coming from WWTPs to protect drinking water, aquatic life, and meet the Nutrient Reduction Strategy’s point source goals. 2) Completing a 10-year revision of the Nutrient Reduction Strategy, updated with enhanced strategies and actions designed to achieve reductions in nonpoint and point sources of nitrogen. <p>For further information on the Wastewater Nitrogen Reduction Strategy, please contact Suzanne Baumann, Municipal Wastewater Section Manager. For more information on the revision of the Nutrient Reduction Strategy, please contact Dave Wall, Research Scientist.</p> |

Descriptions for each group and subgroup are on page 6.

Explanation of group designations:

New or revised water quality standards (WQS) and amendments in rulemaking are **Group 1 projects that are in active development**. These WQS projects are in rulemaking (Group 1A) or are expected to enter rulemaking before the next triennial review (within two to three years) (Group 1B).

Group 1A projects have had a request for public comment published and there is a projected timeline for adoption into state law. The MPCA is focused on responding to any changes needed due to peer review (where applicable), finalizing the technical support document (TSD), and developing the SONAR and final rule language. The need for peer review will influence how long it takes to complete a WQS.

Group 1B projects are in the process of preparing supporting documentation (the TSD), and there is a basic concept of what will be included in rule language. Draft TSDs for new or revised numeric WQS go through an initial public comment period and an independent peer review process. When the TSD is sufficiently complete (i.e., complete enough to allow it to go through peer review), Group 1B projects move into Group 1A, about two to three years.

New or revised WQS and amendments that are priorities to develop 2021 to 2023 include **Group 2 and 3 projects**. These WQS projects were selected as priorities for development in the 2020-2021 Triennial Standards Review and have not yet advanced into rulemaking; their progress during 2022 is provided here.

Group 2 projects are in technical development. Information needs and technical approaches for developing WQS vary widely, making it difficult to estimate the time needed to advance these projects.

Group 2A projects are those for which all necessary supporting studies and other information from outside the MPCA is available. The information is sufficient to conduct a basic evaluation of how the standard will address environmental or programmatic concerns, and to assess the resources needed to promulgate and implement the standard. An important consideration in whether and when a WQS project moves into Group 1 is whether MPCA programs can accommodate the added work to develop policy and implement the new WQS, and still maintain regular permitting and related work. Group 2A projects are likely to move into Group 1B within one to two years.

Group 2B projects are in initial technical development. This can involve many different tasks, such as: compiling and reviewing scientific literature about a pollutant; collecting and reviewing Minnesota-specific data; designing and undertaking one or more studies; and reviewing an EPA criteria document. Projects in Group 2B lack some needed information, such as a scientific study, that prevents completion of technical development. Months to years may pass before the information needed to complete basic technical development is available. Once it is, Group 2B projects move into Group 2A.

Group 3 projects are being tracked. Group 3 projects are those that MPCA has not started developing, either because of missing technical information, a lack of capacity, or both. Group 3 projects may remain in Group 3 with no significant progress made throughout the three-year triennial period.

Group 4 projects do not have a priority status with regard to development but are important WQS work.

NOTE: Under Minn. R. chs. 7050 and 7052, MPCA has authority to develop site-specific water quality standards and site-specific criteria that do not apply statewide and are not subject to rulemaking. More information is available here: <https://www.pca.state.mn.us/water/site-specific-water-quality-standards> and <https://www.pca.state.mn.us/water/site-specific-criteria>.

Opportunities for public comment:

Opportunities for public input on water quality standards occur with the adoption of standards into Minnesota rule. In addition, all of Minnesota's water quality standards are open for public review and comment every three years as part of the Clean Water Act required, Triennial Standards Review. The next Triennial Standards Review begins in late 2023 and continues into 2024.

Specific information about upcoming opportunities to comment on standards proposed for adoption (Group 1A) is available here:

Note: The easiest way to stay current with water quality standards development and adoption is to sign up for GovDelivery notices: the link to sign up is at the bottom of this webpage: <https://www.pca.state.mn.us/get-engaged/proposed-rules>. Follow the instructions and look for "Water Rulemaking."

This report fulfills the requirement of Laws of Minnesota 2015, chapter 4, section 100, paragraph (b).