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December 15, 2019

The Honorable Bill Ingebrigtsen
Chair, Environment and Natural Resources
Finance Committee
3207 Minnesota Senate Building
St. Paul, MN 55155

The Honorable David Tomassoni
Ranking Minority Member, Environment and
Natural Resources Finance Committee
2235 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Carrie Ruud
Chair, Environment and Natural Resources
Policy and Legacy Finance Committee
3233 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Chris Eaton
Ranking Minority Member, Environment and
Natural Resources Policy and Legacy Finance
Committee
2403 Minnesota Senate Building
St. Paul, MN 55155

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

The Honorable Dan Fabian
Ranking Minority Lead, House Environment and
Natural Resources Finance Division
287 State Office Bldg.
100 Rev Dr. Martin Luther King Jr Blvd.
St. Paul, MN 55155

The Honorable John Persell
Chair, House Environment and Natural
Resources Policy Committee
437 State Office Bldg.
100 Rev. Dr. Martin Luther King Jr Blvd.
St. Paul, MN 55155

The Honorable Dale Lueck
Ranking Minority Lead, House Environment and
Natural Resources Policy Committee
311 State Office Bldg.
100 Rev. Dr. Martin Luther King Jr Blvd.
St. Paul, MN 55155

RE: Inventory of Water Quality Standards

Dear Committee Chairs and Ranking Minority Members:

In keeping with the requirements of Laws of Minnesota 2015, First Special Session chapter 150, article 4, section 100, paragraph (b), the enclosed report - MPCA's Inventory of Water Quality Standards – identifies the water quality standards development work in progress in 2019, 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 that was most recently completed in spring 2018. This review is conducted for the explicit purpose of obtaining the public's input on the need for water quality standards and revisions; preparations for the next review will begin towards the end of 2020.

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We hope this report will increase the public's understanding of the water quality standards development process, the water quality standards expected to enter rulemaking in the near future, and the associated opportunities for public comment.

This report is also available on the MPCA's website at <https://www.pca.state.mn.us/about-mPCA/legislative-reports>.

If you have any questions regarding this report, please contact me at 651-757-2031.

Sincerely,

A handwritten signature in blue ink that reads "Greta Gauthier". The signature is fluid and cursive, with a small mark at the end of the last name.

Greta Gauthier
Assistant Commissioner
Commissioners Office

GG/CO:cbg

Inventory of water quality standards projects, 2018 – 2020, with status as of November 2019

New or revised water quality standards and amendments in rulemaking:

Group 1: Current and active WQS projects

Subgroup 1A	Topic	Status
In Rulemaking	<p>Revision of existing Class 3 (industrial consumption), Class 4 (agriculture and wildlife) designations, and associated water quality standards (WQS).</p> <p>https://www.pca.state.mn.us/water/amendments-water-quality-standards-use-classifications-3-and-4</p>	<p>A request for comments on planned revisions to rules governing water quality standards (WQS) for industrial (Class 3) and agricultural and wildlife (Class 4) usage was published in the State Register on March 11, 2019. The request included a description of the planned peer review process and associated charge questions, which were also open for comment along with the draft technical support document (TSD) through April 22, 2019. Comments received have been posted on the MPCA’s website, and the peer review process has been completed. The Minnesota Pollution Control Agency (MPCA) anticipates publishing the proposed rule, TSD and statement of need and reasonableness (SONAR) in the first quarter of 2020.</p> <p>Lead scientist: Scott Kyser</p>
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/wqs-designated-uses</p>	<p>This revision is focused on making 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 framework, which added new Class 2 beneficial use tiers for aquatic life. In addition, a number of cold (Class 2A) and warm/cool (class 2Bd and 2B) water use designations have been reviewed and corrected. A request for comment on the proposed rule was published in the State Register on September 23, 2019 and ran through November 7, 2019. A public hearing will be held on December 11, 2019. It is anticipated that the final rule will be published in Spring 2020.</p> <p>Lead scientist: Will Bouchard</p>

Group 1: Current and active WQS projects

Subgroup 1B	Topic	Status
Pre-rulemaking Development	Revisions to Class 1 (domestic consumption) use designations and associated WQS for groundwater and surface water.	<p>These revisions address the inconsistencies and gaps in Minn. R. chs. 7050 (waters of the state) and 7060 (underground waters) and may include revisions to Class 1 WQS (Minn. R. ch. 7050.0221), including consideration of the domestic consumption use on trout streams. The MPCA, the Minnesota Department of Health, and other agencies with relevant authority are reviewing the specific items to be revised. More information about likely rule changes will be shared with the public when they are available.</p> <p>Lead scientists: Doug Hansen and Angela Preimesberger</p>
Pre-rulemaking Development	Revision of recreational WQS for human health protection from surface water pathogens (<i>E. coli</i>) based on the U. S. Environmental Protection Agency (EPA's) 304(a) Recreational Water Quality Criteria from 2012.	<p>The technical review is substantially complete. Finalization of this revision is delayed.</p> <p>Lead scientist: To be determined</p>

Descriptions for each group and subgroup are on page 5.

New or revised water quality standards and amendments that are priorities to develop 2018 to 2020:

Group 2: In technical development

SubGroup 2A	Topic	Status
Technical Review	(No WQS projects are currently in this subgroup.)	
SubGroup 2B	Topic	Status
Technical Information Outstanding	Additions of numeric WQS for protection of aquatic life for nitrate .	The results from recent EPA-sponsored studies of nitrate toxicity are in manuscript form and undergoing review in advance of publication. MPCA anticipates the results will be available and enable staff to begin updating the 2010 technical support document in 2020 ¹ . Lead scientist: Phil Monson
To be developed with nitrate	Revisions of numeric WQS for protection of aquatic life based on EPA 304(a) Ambient Water Quality Criteria for ammonia .	MPCA plans to revise the WQS for ammonia concurrently with nitrate to address implementation considerations relevant to both pollutants. Lead scientist: To be determined
Technical Information Outstanding	Revisions of numeric WQS for protection of aquatic life for chloride .	EPA is continuing to evaluate aquatic toxicity studies for chloride and the important effects of ion interaction on toxicity. These studies will be incorporated into the draft criteria for chloride that EPA is working on. The MPCA does not anticipate making progress on this project until EPA's draft criteria is released. Lead scientist: Phil Monson
Technical Information Outstanding	Additions of numeric WQS for protection of aquatic life for sulfate .	EPA is continuing to evaluate aquatic toxicity studies for sulfate and the important effects of ion interaction on toxicity. These studies will be incorporated into the draft criteria that EPA is working on. The MPCA does not anticipate making progress on this project until EPA's draft criteria is released. Lead scientist: Phil Monson

Group 3: Tracking and evaluation

Group 3	Topic	Status
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 plans to develop a WQS for PFOS in fish tissue to address an expected increase in the number of water bodies in which fish have been impacted by PFOS. Lead scientists: Angela Preimesberger

¹Since 2010, when MPCA completed a draft technical support document for nitrate, a number of studies have been conducted to assess nitrate's toxicity to specific aquatic organisms. These studies will provide a robust basis for development of this standard.

Other water quality standards 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: To be determined
Intermittent activity	Review of limited resource value waters (Class 7).	Review of Class 7 waters is conducted on an as needed basis. A conceptual model for integrating review of listed Class 7 waters into the MPCA's watershed approach is in development. Lead scientist: Will Bouchard
Inactive	Removal of domestic consumption (Class 1B), industrial consumption (Class 3B), and irrigation (Class 4A) designated uses for a segment of the Dark River, St. Louis County. https://www.pca.state.mn.us/water/wqs-dark-river	A technical review was initiated in response to a request under Minn. R. 7050.0405 to consider the attainability of the domestic consumption, industrial and irrigation designated uses for the trout stream segment of the Dark River, located downstream of Dark Lake in St. Louis County. Monitoring data was later submitted that precludes removal of the Class 4A irrigation use. The review of other designated uses (Class 1B and Class 3B) is impacted by rulemaking projects now underway that address these beneficial use classifications on a statewide basis. This project is currently inactive. Lead scientist: To be determined

Descriptions for each group and subgroup are on page 5.

Explanation of group designations:

New or revised water quality standards 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 Statement of Need and Reasonableness (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 water quality standards and amendments that are priorities to develop 2018 to 2020 include **Group 2 and 3 projects**. These WQS projects were selected as priorities for development in the 2017 Triennial Standards Review and have not yet advanced into rulemaking; their progress during 2018 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 will begin in late 2020.

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

<http://www.pca.state.mn.us/index.php/view-document.html?gid=16321>).

Note: The easiest way to stay current with water quality standards development and adoption is to sign up for GovDelivery notices on the MPCA's Water Quality Standards webpage: <http://www.pca.state.mn.us/qzqh1081>.

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