

## PROPOSED AMENDMENTS TO MINNESOTA RULE PART 7050.0180

### 7050.0180 ~~NONDEGRADATION~~ ANTIDEGRADATION FOR OUTSTANDING RESOURCE VALUE WATERS.

Subpart 1. **Policy.** The agency recognizes that the maintenance of existing high quality in some waters of outstanding resource value to the state is essential to their function as exceptional recreational, cultural, aesthetic, or scientific resources. To preserve the value of these special waters, the agency will prohibit or stringently control new or expanded discharges from either point or nonpoint sources to outstanding resource value waters.

Subp. 2. **Definitions.** For the purpose of this part, the following terms have the meanings given them:

A. "Outstanding resource value waters" are waters within the Boundary Waters Canoe Area Wilderness, Voyageur's National Park, and Department of Natural Resources designated scientific and natural areas, wild, scenic, and recreational river segments, Lake Superior, those portions of the Mississippi River from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981, and other waters of the state with high water quality, wilderness characteristics, unique scientific or ecological significance, exceptional recreational value, or other special qualities which warrant stringent protection from pollution.

B. "New discharge" means a discharge that was not in existence on the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470.

C. "Expanded discharge" means, except as noted in this item, a discharge that changes in volume, quality, location, or any other manner after the effective date the outstanding resource value water was designated as described in parts 7050.0460 and 7050.0470, ~~such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in the discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the agency as of the effective date of outstanding resource value water designation.~~ This definition does not apply to the discharge of bioaccumulative chemicals of concern, as defined in part 7052.0010, subpart 4, to outstanding resource value waters in the Lake Superior Basin. For purposes of part 7050.0180, an expanded discharge of a bioaccumulative chemical of concern to an outstanding resource value water in the Lake Superior Basin is defined in part 7052.0010, subpart 18.

Subp. 3. **Prohibited discharges.** No person may cause or allow a new or expanded discharge of any sewage, industrial waste, or other waste to waters within the Boundary Waters Canoe Area Wilderness; those portions of Lake Superior north of latitude 47 degrees, 57 minutes, 13 seconds, east of Hat Point, south of the Minnesota-Ontario boundary, and west of the Minnesota-Michigan boundary; Voyageur's National Park; or Department of Natural Resources designated scientific and natural areas; or to federal or state wild river segments.

Subp. 4. **DNR designated scientific and natural areas.** Department of Natural Resources designated scientific and natural areas include but are not limited to:

- A. Boot Lake, Anoka County;
- B. Kettle River in sections 15, 22, 23, T 41 N, R 20, Pine County;
- C. Pennington Bog, Beltrami County;
- D. Purvis Lake-Ober Foundation, Saint Louis County;
- E. Waters within the borders of Itasca Wilderness Sanctuary, Clearwater County;
- F. Iron Springs Bog, Clearwater County;
- G. Wolsfeld Woods, Hennepin County;
- H. Green Water Lake, Becker County;
- I. Blackdog Preserve, Dakota County;
- J. Prairie Bush Clover, Jackson County;
- K. Black Lake Bog, Pine County;
- L. Pembina Trail Preserve, Polk County; and
- M. Falls Creek, Washington County.

Subp. 5. **State designated wild river segments.** State designated wild river segments include but are not limited to:

- A. Kettle River from the site of the former dam at Sandstone to its confluence with the Saint Croix River;
- B. Rum River from Ogechie Lake spillway to the northernmost confluence with Lake Onamia.

Subp. 6. **Restricted discharges.** No person may cause or allow a new or expanded discharge of any sewage, industrial waste, or other waste to any of the following waters unless there is not a prudent and feasible alternative to the discharge:

- A. Lake Superior, except those portions identified in subpart 3 as a prohibited discharges zone;

B. those portions of the Mississippi River from Lake Itasca to the southerly boundary of Morrison County that are included in the Mississippi Headwaters Board comprehensive plan dated February 12, 1981;

C. lake trout lakes, both existing and potential, as determined by the agency in conjunction with the Minnesota Department of Natural Resources, outside the boundaries of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park and identified in parts 7050.0460 to 7050.0470;

D. federal or state designated scenic or recreational river segments; and

E. calcareous fens identified in subpart 6b.

If a new or expanded discharge to these waters is permitted, the agency shall restrict the discharge to the extent necessary to preserve the existing high quality, ~~or to preserve~~ and the wilderness, scientific, recreational, or other special characteristics that make the water an outstanding resource value water. Preserving the existing high quality means that the new or expanded discharge may not consume any of the assimilative capacity of the outstanding resource value water as that term is defined in part 7050.0181, subp. 2.

Subp. 6a. **Federal or state designated scenic or recreational river segments.** Waters with a federal or state scenic or recreational designation include but are not limited to:

A. Saint Croix River, entire length;

B. Cannon River from northern city limits of Faribault to its confluence with the Mississippi River;

C. North Fork of the Crow River from Lake Koronis outlet to the Meeker-Wright county line;

D. Kettle River from north Pine County line to the site of the former dam at Sandstone;

E. Minnesota River from Lac qui Parle dam to Redwood County State-Aid highway 11;

F. Mississippi River from County State-Aid Highway 7 bridge in Saint Cloud to northwestern city limits of Anoka; and

G. Rum River from State Highway 27 bridge in Onamia to Madison and Rice Streets in Anoka.

Subp. 6b. **Calcareous fens.** The following calcareous fens are designated outstanding resource value waters:

A. Becker County: Spring Creek WMA NHR fen, 34 (T.142, R.42, S.13);

B. Carver County: Seminary fen, 75 (T.116, R.23, S.35);

C. Clay County:

- (1) Barnesville Moraine fen, 44 (T.137, R.44, S.18);
- (2) Barnesville WMA fen, 10 (T.137, R.45, S.1);
- (3) Barnesville WMA fen, 43 (T.137, R.44, S.18);
- (4) Felton Prairie fen, 28 (T.142, R.46, S.36);
- (5) Felton Prairie fen, 36 (T.141, R.46, S.13);
- (6) Felton Prairie fen, 48 (T.142, R.45, S.31);
- (7) Felton Prairie fen, 53 (T.141, R.46, S.24);
- (8) Haugtvedt WPA North Unit fen, 54 (T.137, R.44, S.28, 29); and
- (9) Spring Prairie fen, 37 (T.140, R.46, S.11);

D. Clearwater County: Clearbrook fen, 61 (T.149, R.37, S.17);

E. Dakota County:

- (1) Black Dog Preserve fen, 63 (T.27, R.24, S.34);
- (2) Fort Snelling State Park fen, 25 (T.27, R.23, S.4); and
- (3) Nicols Meadow fen, 24 (T.27, R.23, S.18);

F. Goodhue County:

- (1) Holden 1 West fen, 3 (T.110, R.18, S.1);
- (2) Perched Valley Wetlands fen, 2 (T.112, R.13, S.8); and
- (3) Red Wing fen, 72 (T.113, R.15, S.21);

G. Houston County: Houston fen, 62 (T.104, R.6, S.26);

H. Jackson County:

- (1) Heron Lake fen, 45 (T.103, R.36, S.29); and

(2) Thompson Prairie fen, 20 (T.103, R.35, S.7);

I. Le Sueur County:

(1) Ottawa Bluff fen, 56 (T.110, R.26, S.3);

(2) Ottawa WMA fen, 7 (T.110, R.26, S.11); and

(3) Ottawa WMA fen, 60 (T.110, R.26, S.14);

J. Lincoln County: Hole-in-the-Mountain Prairie fen, 6; Pipestone (T.108, R.46, S.1; T.109, R.45, S.31);

K. Mahnomen County: Waubun WMA fen, 11 (T.143, R.42, S.25);

L. Marshall County:

(1) Tamarac River fen, 71 (T.157, R.46, S.2);

(2) Viking fen, 68 (T.155, R.45, S.18);

(3) Viking fen, 70 (T.155, R.45, S.20); and

(4) Viking Strip fen, 69 (T.154, R.45, S.4);

M. Martin County: Perch Creek WMA fen, 33 (T.104, R.30, S.7);

N. Murray County: Lost Timber Prairie fen, 13 (T.105, R.43, S.2);

O. Nicollet County:

(1) Fort Ridgely fen, 21 (T.111, R.32, S.6); and

(2) Le Sueur fen, 32 (T.111, R.26, S.16);

P. Nobles County: Westside fen, 59 (T.102, R.43, S.11);

Q. Norman County:

(1) Agassiz-Olson WMA fen, 17 (T.146, R.45, S.22);

(2) Faith Prairie fen, 15 (T.144, R.43, S.26);

(3) Faith Prairie fen, 16 (T.144, R.43, S.35);

(4) Faith Prairie fen, 27 (T.144, R.43, S.25);

and

(5) Green Meadow fen, 14 (T.145, R.45, S.35, 36);

R. Olmsted County:

(1) High Forest fen, 12 (T.105, R.14, S.14, 15); and

(2) Nelson WMA fen, 5 (T.105, R.15, S.16);

S. Pennington County:

(1) Sanders East fen, 65 (T.153, R.44, S.7);

(2) Sanders East fen, 74 (T.153, R.44, S.7); and

(3) Sanders fen, 64 (T.153, R.44, S.18, 19);

T. Pipestone County:

(1) Burke WMA fen, 57 (T.106, R.44, S.28); and

(2) Hole-in-the-Mountain Prairie fen, 6 (see Lincoln County, item J);

U. Polk County:

(1) Chicog Prairie fen, 39 (T.148, R.45, S.28);

(2) Chicog Prairie fen, 40 (T.148, R.45, S.33);

(3) Chicog Prairie fen, 41 (T.148, R.45, S.20, 29);

(4) Chicog Prairie fen, 42 (T.148, R.45, S.33);

(5) Kittleson Creek Mire fen, 55 (T.147, R.44, S.6, 7);

(6) Tympanuchus Prairie fen, 26 (T.149, R.45, S.17); and

(7) Tympanuchus Prairie fen, 38 (T.149, R.45, S.16);

V. Pope County:

(1) Blue Mounds fen, 1 (T.124, R.39, S.14, 15);

(2) Lake Johanna fen, 4 (T.123, R.36, S.29); and

(3) Ordway Prairie fen, 35 (T.123, R.36, S.30);

W. Redwood County:

(1) Swedes Forest fen, 8 (T.114, R.37, S.19, 20); and

(2) Swedes Forest fen, 9 (T.114, R.37, S.22, 27);

X. Rice County:

(1) Cannon River Wilderness Area fen, 18 (T.111, R.20, S.34); and

(2) Cannon River Wilderness Area fen, 73 (T.111, R.20, S.22);

Y. Scott County:

(1) Savage fen, 22 (T.115, R.21, S.17);

(2) Savage fen, 66 (T.115, R.21, S.16); and

(3) Savage fen, 67 (T.115, R.21, S.17);

Z. Wilkin County:

(1) Anna Gronseth Prairie fen, 47 (T.134, R.45, S.15);

(2) Anna Gronseth Prairie fen, 49 (T.134, R.45, S.10);

(3) Anna Gronseth Prairie fen, 52 (T.134, R.45, S.4);

(4) Rothsay Prairie fen, 46 (T.136, R.45, S.33);

(5) Rothsay Prairie fen, 50 (T.135, R.45, S.15, 16); and

(6) Rothsay Prairie fen, 51 (T.135, R.45, S.9);

AA. Winona County: Wiscoy fen, 58 (T.105, R.7, S.15); and

BB. Yellow Medicine County:

(1) Sioux Nation WMA NHR fen, 29 (T.114, R.46, S.17); and

(2) Yellow Medicine fen, 30 (T.115, R.46, S.18).

Subp. 7. **Unlisted Listing additional outstanding resource value waters.** ~~The agency shall prohibit or stringently control new or expanded discharges to outstanding resource value waters~~

~~not specified in subparts 3 to 6b to the extent that this stringent protection is necessary to preserve the existing high quality, or to preserve the wilderness, scientific, recreational, or other special characteristics that make the water an outstanding resource value water. Any water or portion thereof that is determined to be an outstanding resource value water based on one or more of the considerations in Subpart 1(A) may be designated for protection as an outstanding resource value water. A request for designation may be made by the agency or through public nominations that are submitted to the agency in writing and that include sufficient information to show that the water body is an outstanding resource value water.~~

Subp. 8. **Public hearing.** A. The agency shall provide an opportunity for a hearing before identifying and establishing additional outstanding resource value waters, before determining the existence or lack of prudent and feasible alternatives under subpart 6, and before prohibiting or restricting new or expanded discharges to outstanding resource value waters under subparts 3, 6, 6a, 6b, and 7.

B. Upon receiving a request for outstanding resource value water designation, the agency shall:

(1) Respond within thirty days of receipt with a decision on whether the submitted information warrants that the water body be considered for outstanding resource value water designation based on the factors in Subpart 1A. If so, the agency shall schedule a review of the nominated water for designation as an outstanding resource value water, which will include a public process and consultation with recognized tribes in the geographic vicinity of the water.

(2) After considering public comments and weighing public support for the proposal, the agency will make a final determination on whether a nominated water body should be adopted into this part as an outstanding resource value water.

Subp. 9. **Impact from upstream discharges.** The agency shall require new or expanded discharges to waters that flow into outstanding resource value waters be controlled so as to assure no deterioration in the quality of the downstream outstanding resource value water.

Subp. 10. **Thermal discharges.** If a thermal discharge causes potential water quality impairment, the agency shall implement the nondegradation policy consistent with section 316 of the Clean Water Act, United States Code, title 33, section 1326.