

July 2012

Minnesota Pollution Control Agency

Watershed Division

Public Notice of Availability of Draft Pope 8 Lakes Nutrient TMDL Report and Request for Comment

Public Comment Period Begins: July 23, 2012

Public Comment Period Ends: August 22, 2012

The Minnesota Pollution Control Agency (MPCA) is requesting comments on the draft report for the Nutrient Total Maximum Daily Load (TMDL) study conducted for eight lakes in Pope County, Minnesota, that are on the EPA's 303d list of impaired waters due to excess nutrients (total phosphorus). The lakes are Ann, Emily, Gilchrist, Leven, Malmedal, Pelican, Reno, and Strandness.

The draft TMDL Report for the eight Pope County lakes is available for review at <http://www.pca.state.mn.us/index.php/water/water-types-and-programs/minnesotas-impaired-waters-and-tmdls/tmdl-projects/minnesota-river-basin-tmdl-projects/project-pope-county-8-lakes-excess-nutrients.html>

Comments on the draft TMDL report must be sent in writing to the MPCA contact person listed below by 4:30 P.M. on August 22, 2012.

Following the comment period, the MPCA will submit the draft report to the U.S. Environmental Protection Agency (EPA) for approval.

Required by the federal Clean Water Act, a TMDL is a scientific study that calculates the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards for that pollutant. It is a process that identifies all the sources of the pollutant causing impairment and allocates necessary reductions among them. This multi-year effort results in a pollution reduction plan and engages stakeholders and the general public. An approved TMDL is followed by implementation activities led by local stakeholders for achieving the necessary reductions.

Background on the Pope 8 Lakes:

The eight Pope County lakes in this study are located in the Chippewa River watershed and are tributary to the Minnesota River. The project study area is dominated by agricultural land uses. The land is used heavily for cropland and pasture/hay as well as for livestock agriculture. The largest urban area is the City of Glenwood on the shores of Lake Minnewaska. All of the listed lakes have several classifications. The most protective of these classes is Class 2 waters, which are protected for aquatic life and recreation (waters of the state that support or may support fish, other aquatic life, swimming, boating, or other recreational purposes and for which quality

control is or may be necessary to protect aquatic or terrestrial life or their habitats or the public health, safety, or welfare).

Phosphorus has been identified as the primary pollutant leading to eutrophication in these lakes. Potential phosphorus sources include: point sources requiring NPDES (National Pollutant Discharge Elimination System) permit coverage, stormwater runoff, loading from upstream waters, runoff from feedlots not requiring NPDES permit coverage, atmospheric deposition, subsurface sewage treatment systems (SSTS), groundwater, internal loading, in-stream erosion.

Agency contact person: Written comments and requests for more information should be directed to:

- Tim James
- MPCA Detroit Lakes Regional Office
- 714 Lake Avenue
- Suite 220
- Detroit Lakes, MN 56501
- 218-846-8103
- Fax: (218) 846-0719
- E-mail: tim.james@state.mn.us
- Web: www.pca.state.mn.us use search box and type in “pope 8 lakes tmdl”
- TTY users may call the MPCA teletypewriter at (651) 282-5332 or 1-800-65-3864.

Preliminary determination on the draft TMDL:

The MPCA commissioner has made a preliminary determination to submit this TMDL report to the EPA for final approval. A draft TMDL report is available for review at the MPCA office at the location below and at the MPCA Website: [http://](http://www.pca.state.mn.us/index.php/water/water-types-and-programs/minnesotas-impaired-waters-and-tmdls/tmdl-projects/minnesota-river-basin-tmdl-projects/project-pope-county-8-lakes-excess-nutrients.html)

www.pca.state.mn.us/index.php/water/water-types-and-programs/minnesotas-impaired-waters-and-tmdls/tmdl-projects/minnesota-river-basin-tmdl-projects/project-pope-county-8-lakes-excess-nutrients.html

Comments regarding the draft TMDL report will be considered before it is sent to the EPA for final approval.

Written comments: You may submit written comments on the draft TMDL report for Pope 8 Lakes Nutrient TMDL Report . Written comments must include the following:

1. A statement of your interest in the draft TMDL report
2. A statement of the action you wish the MPCA to take, including specific references to sections of the draft TMDL report that you believe should be changed; and
3. The reasons supporting your position, stated with sufficient specificity as to allow the Commissioner to investigate the merits of your position.

In addition to submitting comments, a request may be made for either a public informational meeting and/or a MPCA Citizen's Board Item.

Request for public informational meeting: A public informational meeting is an informal meeting that the MPCA may hold to solicit public comment and statements on matters before the MPCA, and to help clarify and resolve issues.

A request for a public informational meeting must include the following:

1. A statement identifying the matter of concern;
2. The information required under items 1 through 3 of "Written Comments" identified above;
3. A statement of the reasons the MPCA should hold a public informational meeting; and
4. The issues that you would like the MPCA to address at the meeting.

Petition for Contested Case Hearing:

You may also submit a petition for a contested case hearing. A contested case hearing is a formal evidentiary hearing before an administrative law judge. In accordance with Minn. R. 7000.1900, the MPCA will grant a petition to hold a contested case hearing if it finds that:

1. There is a material issue of fact in dispute concerning the application or draft TMDL Report;
 2. The MPCA has the jurisdiction to make a determination on the disputed material issue of fact; and
 3. There is a reasonable basis underlying the disputed material issue of fact or facts such that the holding of the contested case hearing would allow the introduction of information that would aid the MPCA in resolving the disputed facts in making a final decision on the draft TMDL Report.
- A material issue of fact means a fact question, as distinguished from a policy question, whose resolution could have a direct bearing on a final MPCA decision.

A petition for a contested case hearing must include the following information:

1. A statement of reasons or proposed findings supporting the MPCA decision to hold a contested case hearing according to the criteria in Minn. R. 7000.1900, as discussed above; and;
2. A statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

In addition, and to the extent known, a petition for a contested case hearing should also include the following information:

1. A proposed list of prospective witnesses to be called, including experts, with a brief description of proposed testimony or summary of evidence to be presented at a contested case hearing;
2. A proposed list of publications, references, or studies to be introduced and relied upon at a

contested case hearing; and

3. An estimate of time required for you to present the matter at a contested case hearing.

MPCA Decision:

You may submit a petition to the Commissioner requesting that the MPCA Citizens' Board (Board) consider the TMDL Report approval. To be considered timely, the petition must be received by the MPCA by 4:30 p.m. on the date the public comment period ends, identified on page 1 of this notice. Under the provisions of Minn. Stat. § 116.02, subd 6(4), the decision whether to submit the TMDL Report and, if so, under what terms will be presented to the Board for decision if:

1. The Commissioner grants the petition requesting the matter be presented to the Board;
2. One or more Board members request to hear the matter before the time the Commissioner makes a final decision on the TMDL Report; or
3. A timely request for a contested case hearing is pending. You may participate in the activities of the MPCA Board as provided in Minn. R. 7000.0650.

The written comments, requests, and petitions submitted on or before the last day of the public comment period will be considered in the final decision on this TMDL Report. If the MPCA does not receive written comments, requests, or petitions during the public comment period, MPCA staff as authorized by the Board will make the final decision on the draft TMDL Report.