

## Minnesota Pollution Control Agency

### Environmental Assessment and Outcomes Division

#### REQUEST FOR COMMENTS

#### **Possible Amendments to Rules Governing Water Quality Standards, Minnesota Rules, chapters 7050 and 7053; Revisor's ID Number R-04737; OAH Docket No. 71-9003-38118**

**Overview.** The Minnesota Pollution Control Agency (MPCA) is requesting comments on possible amendments to water rules, *Minnesota Rules*, chapters 7050 and 7053. This rulemaking is referred to as the Class 2 Aquatic Life Ammonia Standard Rule. The MPCA is considering amendments to the listed rule chapters and requests comments on the proposed amendments from affected or interested parties. See the [Comment](#) and [MPCA Contact Person](#) sections of this notice for information on how to submit comments.

This request for comments is the MPCA's legal notice of its intent to begin rulemaking. This is the first of several opportunities for public comment and input on this rulemaking. At this stage, we do not have a draft rule; we want your feedback to inform us about the ideas described under the [Subject of Rules](#) section.

If you have other ideas related to this rulemaking that we need to consider, please submit them in writing. For example, we recognize that costs to regulated parties can be a concern with rulemaking; if you have cost information or data related to this rulemaking that you wish to share with us to inform our decisions, please submit that information. Submitting your ideas and information at this early stage in rulemaking allows us more time to address issues that may arise, and it helps to ensure informed decision-making on our part. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

View the [Alternative Format/Accommodation](#) and [MPCA Contact Person](#) sections of this notice for information on requesting this document in an alternative format.

**Subject of rules.** The MPCA requests comments on its possible amendment to rules governing water quality standards. The MPCA is considering rule amendments that focus on one use class: Class 2 (surface) waters protected for aquatic life, and one pollutant: ammonia. This rulemaking proposes to revise an existing ammonia water quality standard to bring the protections of aquatic life up to date with current science by incorporating an Environmental Protection Agency (EPA) recommended criteria. The MPCA expects to propose amendments that include an updated standard for ammonia, including a final acute value, maximum standard, and final chronic value in chapter 7050. Additions or revisions to chapter 7053 might also be needed to support implementation. More information on this rulemaking can be found at <https://www.pca.state.mn.us/water/amendments-water-quality-standards-use-classification-2-ammonia>. This rulemaking might include other issues that arise, as the MPCA sees fit. The rule proposal may change between this Request for Comments and the Notice of Hearing.

**Peer review.** [Minn. Stat. 115.035](#) requires a peer review process for new or revised numeric water quality standards, unless MPCA is adopting an EPA criteria without change. Because MPCA plans to adopt the EPA's recommended ammonia criteria, no peer review is necessary for the Class 2 ammonia water quality standard revisions.

**Persons affected.** The possible amendments to the rules would affect some municipal and industrial wastewater dischargers to waters of the state. The MPCA anticipates that adoption of EPA's recommended ammonia criteria will not result in new effluent limits for discharges of municipal waste from NPDES permitted controlled stabilization ponds due to the short, seasonal windows of discharge

and low ammonia concentrations in the effluent. Winter limits, in addition to the existing spring and fall limits would be necessary for some NPDES permitted continuous discharges. More restrictive limits for new and expanding continuous discharges would be necessary, compared to those found in existing permits.

Because the revisions under consideration to the rules are applicable state-wide, any person in Minnesota may potentially be affected by changes made to these rules.

**Public Comment.** You may submit comments or information related to this rulemaking until **4:30 p.m. Thursday, September 15, 2022**. Submit written comments to the Office of Administrative Hearings (OAH) Rulemaking eComments website at <https://minnesotaoah.granicusideas.com>.

If it is not possible to use the eComments website, comments may be submitted in person, via United States mail, or by facsimile addressed to Denise Collins, OAH Court Administrator, 600 North Robert Street, PO Box 64620, St. Paul, Minnesota 55164-0620 or at 651-539-0310 (fax). Any questions about submitting comments using the eComments website should be directed to Denise Collins, OAH, at 651-361-7875 or [denise.collins@state.mn.us](mailto:denise.collins@state.mn.us).

You may view frequently asked questions about the OAH Rulemaking eComments website at [https://mn.gov/oah/assets/ecommments-faq\\_tcm19-82012.pdf](https://mn.gov/oah/assets/ecommments-faq_tcm19-82012.pdf). Any questions about submitting comments via the Rulemaking eComments website should be directed to the OAH at 651-361-7900.

Comments received are public and will be available for review at the OAH Rulemaking eComments website at <https://minnesotaoah.granicusideas.com/discussions> and at the OAH at the address indicated above. After the close of the comment period on **September 15, 2022**, the comments will also be available on the MPCA's rulemaking webpage, <https://www.pca.state.mn.us/water/amendments-water-quality-standards-use-classification-2-ammonia>.

The MPCA will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments.

The MPCA does not plan to appoint an advisory committee to comment on the possible rules.

The MPCA does not anticipate that the rule amendments will require a local government to adopt or amend an ordinance or other regulation under *Minnesota Statutes* section, 14.128. Local governments may submit written information to the contrary.

The MPCA requests any information pertaining to the cumulative effect of the rule amendments, including other federal and state regulations related to the specific purpose of the rule. Cumulative effect means the incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

**NOTE:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge (ALJ) if and when the MPCA starts the formal process to adopt rules with a Notice of Hearing. The MPCA is required to submit to the ALJ only those written comments received in response to the draft rules after they are proposed. If you submit comments during the development of the rules and want to ensure that the ALJ reviews your comments, you should resubmit the comments after the rules are formally proposed.

**MPCA contact person.** The MPCA contact person is Claudia Hochstein, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194; telephone: 651-757-2622. You may also call the MPCA at 651-296-6300 or 1-800-657-3864; use your preferred relay service.

1. During the public comment period associated with this request for comments:
  - a. Submit all comments in response to this notice as described in the [Comments](#) section of this request for comments.
  - b. Contact the MPCA contact person with clarification questions and requests for more information.
2. After the public comment period closes, route communications to the following staff:
  - a. Rulemaking process: Claudia Hochstein at 651-757-2622 and [claudia.hochstein@state.mn.us](mailto:claudia.hochstein@state.mn.us)
  - b. Technical subject expert: Robert Dietz at 651-757-2668 and [robert.dietz@state.mn.us](mailto:robert.dietz@state.mn.us)

**Rules drafts.** The MPCA does not anticipate that a draft of the rule amendments will be available before the publication of the proposed rules. Persons interested in being notified when a draft of the rules is available and of other activities relating to this rulemaking are encouraged to register at: [http://public.govdelivery.com/accounts/MNPCA/subscriber/new?topic\\_id=MNPCA\\_466](http://public.govdelivery.com/accounts/MNPCA/subscriber/new?topic_id=MNPCA_466) (MPCA GovDelivery-Rulemaking: Class 2 water quality standard for ammonia).

**Alternative format/accommodation.** Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the [MPCA contact person](#).

**Statutory authority.** *Minnesota Statutes* section 115.03, subd. 1 and *Minnesota Statutes* section 115.44, subd. 2 authorize the MPCA to establish standards necessary to protect beneficial public uses. *Minnesota Statutes* section 115.44, subd. 2 authorizes the MPCA to adopt rules for grouping designated waters of the state into classes considering the best usage in the interest of the public.

---

Katrina Kessler, Commissioner  
Minnesota Pollution Control Agency

\_\_July 18, 2022\_\_\_\_\_  
Date