

**STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY**

**Adoption of Amendments to Water Quality  
Standards: Minnesota Rules, Chapter 7050,  
relating to Modification of Class 2 Use Designations**

**FINDINGS OF FACT AND  
ORDER ADOPTING RULES**

**OAH Docket No. 23-9003-37415  
Revisor's ID Number: R-4692**

**WHEREAS:**

1. The Minnesota Pollution Control Agency (MPCA) published a Notice of Hearing on the rule amendments identified above in the *State Register* on December 12, 2022 (47 SR 525).
2. During the pre-hearing public comment period (December 12, 2022 – February 3, 2023), the MPCA received two comment letters.
3. Administrative Law Judge (ALJ) Suzanne Todnem conducted a public hearing on the proposed rule amendments on February 16, 2023.
4. No persons provided testimony or sought clarification from the MPCA on the proposed rule amendments, and no comments were submitted at the hearing. No additional comments were submitted before the close of the hearing record on March 15, 2023.
5. No changes were made between the proposed rule amendments and the adopted rules. The MPCA made no modifications to Minn. R. 7050.0470, and no modifications to the proposed amendments to update the Class 2 use designation tables incorporated by reference in Minn. R. 7050.0470.
6. The MPCA's response to the comments received are found in the Post-hearing Response to Comments (Attachment 1).
7. Judge Todnem issued her Report of the ALJ on this matter on April 14, 2023. As detailed in the Report, Judge Todnem determined that the MPCA established it has the statutory authority to adopt the proposed rules, it complied with all procedural requirements of law and rule, and that the proposed rules are needed and reasonable.
8. Judge Todnem approved the proposed rules and recommended they be adopted.
9. Judge Todnem also suggested in the Report at Finding No. 144 "...the publication dates of the tables entitled "Beneficial Use Designations for Stream Reaches" in the proposed rule is the MPCA's projected estimate of "March 2023." Because of the lengthy rulemaking process, the Commissioner may wish to consider adjusting the stated publication date to more accurately reflect the final publication date. If only the publication date is changed, such a modification would be supported by the facts in the hearing record."
10. The MPCA thoughtfully considered the suggestion and is not changing the "March 2023" date in the proposed rule at part 7050.0470 subparts 1.A, 2.A, 3.A, 4.A, 5.A, 6.A, and 7.A.
11. As explained in section 2.E.iv of the August 2022, Statement of Need and Reasonableness (in the

matter of proposed revisions of Minnesota Rules, chapter 7050, relating to Class 2 beneficial use designations), “This rule amendment proposes to update the tables incorporated by reference in Minn. R. 7050.0470 which list the specific use designations for streams. The rules also amend the date in Minn. R. 7050.0470 for each of the tables that contain the updated streams applicable to this rulemaking to identify the estimated date for adoption of the proposed rules.”

12. When MPCA drafted the rule amendments, the Revisor of Statutes explained that the date in Minn. R. 7050.0470 did not need to be specific in the proposed rules if the MPCA was not certain when the new versions of the tables would be available and recommended that specifying a year or a month and a year would be sufficient. Accordingly, the MPCA estimated the rules would be adopted in March 2023; the date in the proposed rules published in the State Register on December 12, 2022. The MPCA now expects the final publication date of the adopted rules to be July 2023.
13. The MPCA believes modifying the date from March 2023 to July 2023 could cause confusion or raise questions – e.g. did MPCA also make changes to the proposed changes in the use designation tables? And changing the date could also create the impression that the March 2023 version of the use designation tables are no longer valid and will be updated in July 2023 with some yet unseen modifications. This could cause alarm for regulated parties.
14. Though the March 2023 date is not the date the rules are adopted, the MPCA and the Revisor of Statutes determined that the March 2023 date is not problematic either.
15. Regardless of the date the MPCA finalizes the rulemaking and the updated use designation tables are posted on the MPCA’s incorporation by reference webpage, the March 2023 date will be added to the updated tables as proposed, thus assuring the public that the tables are the same tables that were linked with the proposed rules.
16. The MPCA adopts the findings and conclusions in the Report of the ALJ dated April 14, 2023, from Judge Todnem.
17. As required by Minn. Stat. § 14.19, the MPCA intends to submit its Notice of Adoption of Rules to the *State Register* within 180 days after the issuance of the Report of the ALJ.

**ORDER TO ADOPT RULES**

**IT IS ORDERED** that the above captioned rules, in the form published in the *State Register* on December 12, 2022, are hereby adopted under authority granted in Minn. Stat. § 115.03 subd. 1 (e).

June 6, 2023

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Date

*Katrina Kessler*

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Katrina Kessler

Commissioner

Minnesota Pollution Control Agency