

Minnesota Pollution Control Agency

Request For Comments on Planned Amendments to Water Quality Standards to Incorporate a Classification System Based on the Application of Tiered Aquatic Life Uses. Minn. Rules Chapters 7050, 7052 and 7053.

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) requests comments on planned changes to rules governing water quality standards, Minn. R. chapter 7050 (Waters of the State). The changes being considered will add a new framework called Tiered Aquatic Life Uses (TALU). TALU will add a biologic component to the existing standards for Class 2 (aquatic life and recreation) waters. Possible supporting changes to Minn. R. chapters 7052 (Lake Superior Basin), and 7053 (State Waters Discharge Restrictions) are also being considered. Comments should be submitted according to the **Public Comment** section below.

Subject of Rules: Minnesota’s surface waters are currently classified according to a number of possible uses (e.g. drinking water, aquatic life, industrial use) and physical and chemical criteria apply according to those uses. Adoption of the TALU framework will not change the existing uses or physical/chemical criteria, but will more accurately categorize rivers and streams based on biological communities. TALU will change the current aquatic life use standards from a “one-size-fits-all” approach to one that protects rivers and streams based on their biological potential. This means:

- High quality or “Exceptional Use” rivers and streams will be given additional protection to maintain the condition of these habitats.
- Categories of “Modified” and “Limited Use” will be added to address some waters that cannot meet aquatic life use goals, either as a result of past practices such as ditching or channelization or because of technological limits.
- Assessment and enforcement of water quality standards will be more effective and transparent.

The changes being considered will include changes to Class 2 use classes and to the biological standards that are necessary to implement the TALU framework, but will not extend to changes to the chemical/physical standards (numeric and narrative) that already apply to Minnesota waters. The MPCA does not intend to change *Minnesota Rules* chapters 7052 or 7053 except as needed to correspond to the TALU changes being made to *Minnesota Rules* chapter 7050 or to make minor changes or corrections found in the course of the rulemaking process.

The state rulemaking process requires agencies to consider several specific topics as it develops rules. The MPCA is specifically asking for comment about the expected economic effect and cumulative impact¹ of the changes being considered (*Minnesota Statutes* §14.131), and also whether a local government may be required to adopt or amend an ordinance or other regulation in response to the changes. (*Minnesota Statutes* § 14.128).

Plain English Summary: 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 there is no draft rule available to review; we want your feedback to inform us about the ideas described under the Subject of Rules section above. If you have other ideas or information related to this topic that we need to consider, please provide them. Submitting your ideas and information to us at this early stage in rulemaking allows time to address issues and ensures informed decision-making.

¹ Cumulative impact means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

Where to Get More Information: A web page has been established for this rulemaking. ([Tiered Aquatic Life Use \(TALU\) framework](#)) This page provides an explanation of the TALU system and rulemaking information will be posted in the **Rulemaking documents** and **Schedule/public participation** tabs. Draft rule language is not available at this time but a concept document that provides information about the changes being considered is available for review in the **Rulemaking documents** tab.

If you are interested in being notified when draft rules are available for review and of other activities related to this rulemaking, please register for GovDelivery at: <https://public.govdelivery.com/accounts/MNPCA/subscriber/new>. The checkbox for the TALU rule is located under the topic heading "Public Notices and Rulemaking".

Persons Affected: The TALU rulemaking potentially affects all persons working with or interested in the state Water Quality Standards, such as persons working in planning, natural resource management, soil and water conservation and environmental protection. Because the TALU system will also result in more accurate classification of waters and more effective assessment and implementation of Water Quality Standards, persons with a general interest in the quality of Minnesota's waters, such as fishing, tourism and agriculture, may also be affected.

Statutory Authority: *Minnesota Statute* § 115.03, subd. 1 grants the MPCA general authority to promulgate and/or revise the rules relating to the pollution of any of the waters of the state; and *Minnesota Statute* § 115.44 grants the MPCA authority to group designated waters of the state into classes.

Public Comment: Interested persons or groups may submit written comments or information on these planned rule amendments from August 25, 2014 until 4:30 p.m. on October 17, 2014. Comments or information should be submitted to Carol Nankivel at the address below. The MPCA does not plan to appoint an advisory committee to comment on the possible rules.

MPCA Contact Person: Written comments and requests for more information on these planned rule amendments should be directed to:

Carol Nankivel
Minnesota Pollution Control Agency
520 Lafayette Road North, St. Paul MN 55155-4194
Telephone: 651-757-2597 or **Toll-free:** 1-800-657-3864
TTY: 651-282-5332
E-mail: carol.nankivel@state.mn.us

Alternative Format: This information is available in an alternative format, such as large print, Braille, or audio through the contact person identified above.

Note: The comments received during this comment period will be considered by the MPCA in the development of the rules. However, if you submit written comments at this time and want the administrative law judge to review your comments, you must resubmit them when proposed rules are published for official comment.

Date

8/14/2014


John Linc Stine, Commissioner
Minnesota Pollution Control Agency