

Minnesota Pollution Control Agency

Environmental Analysis and Outcomes Division

NOTICE OF HEARING

Proposed Amendments to Rules Governing Water Quality Standards, *Minnesota Rules*, chapters 7050 and 7053 and Repeal of *Minnesota Rules*, parts 7050.0410; 7050.0425; 7050.0430; and 7050.0450; Revisor's ID Number 04335, OAH docket number 65-9003-37102

Overview. This notice is the Minnesota Pollution Control Agency's (MPCA) legal notice of its intent to adopt amended water rules following a hearing. The purpose of these revisions, known as the Class 3 and 4 Water Quality Standards rule revisions, is to ensure that water quality standards (WQS) reflect the latest scientific understanding of how water quality affects the ability to use the water for industrial and agricultural purposes (or beneficial uses). The rule revisions also provide clarity around the implementation of the WQS, particularly in terms of how permit conditions are derived and applied to facilities that discharge to waters designated with these beneficial uses.

This notice provides you the opportunity to submit your comments on this rule to the Administrative Law Judge (ALJ) either orally at the hearing or in writing at any time before the close of the hearing record. The [Subject of Rules](#) section provides further description of these proposed rules. 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.

Public Hearing. The MPCA intends to adopt rules after a public hearing following the procedures in the rules of the Office of Administrative Hearings (OAH), *Minnesota Rules* parts 1400.2200 to 1400.2240, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.131 to 14.20. The MPCA will hold a virtual public hearing on the above-named rules, with the login and call-in information listed below, starting at **2:00 p.m. on February 4, 2021**. The hearing continues until all parties present are heard, or until the end time of 4:30 p.m., whichever occurs first.

For video and audio connection to the virtual hearing, join through an internet connection, such as with a computer or tablet:

Enter: <https://minnesota.webex.com>

Meeting number: 146 933 0849

Meeting password: c3P7v3x36SG

For audio connection only, join the hearing by phone:

Call: 1-415-655-0003 (US Toll)

Access code: 146 933 0849

Additional information regarding the hearings and the rules being proposed is provided at <https://www.pca.state.mn.us/water/amendments-water-quality-standards-use-classifications-3-and-4>. Hearing exhibits will also be posted to this website before the hearing.

Administrative Law Judge. ALJ Ann C. O'Reilly will conduct the hearing. Judge O'Reilly's Legal Assistant, Lisa Armstrong, can be reached at the OAH, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620, telephone 651-361-7888, and fax 651-539-0310. The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.131 to 14.20, and by the rules of the OAH, *Minnesota Rules*, parts 1400.2000 to 1400.2240. You should direct questions about the rule hearing procedure to the ALJ.

Subject of Rules. The proposed revisions are to rules for water quality standards. Water quality standards (WQS) are foundational tools to protect water quality. They consist of beneficial uses – which identify how people, aquatic communities, and wildlife use waters – and linked numeric or narrative standards. Numeric standards set out amounts of specific pollutants allowed in a body of water that still protects it for the beneficial use, while narrative standards are statements of conditions in and on the water that must be either maintained or avoided in order to protect the beneficial use.

The proposed changes are to the WQS that protect water quality for use in industrial processes (Class 3A, 3B, 3C, and 3D), in [Minn. R. 7050.0223](#), and agriculture - crop irrigation (Class 4A), and livestock and wildlife watering (Class 4B), in [Minn. R. 7050.0224](#). The purpose of this rule revision is to ensure that the standards reflect the latest scientific understanding of how water quality affects the ability to use the water for those industrial and agricultural purposes (or beneficial uses). The rule revisions also provide clarity around the implementation of the WQS, particularly in terms of how permit conditions are derived and applied to facilities that discharge to waters designated with these beneficial uses. Implementation procedures are found in [Minn. R. ch. 7053](#).

Most of Minnesota’s WQS are expressed as numeric values. These numeric values establish levels of pollutants in the water that cannot be exceeded without potentially harming the ability of the water to attain its beneficial use. In many cases, numeric standards are appropriate. However, the diversity of water quality needs for industrial and irrigation use means that identifying protective numeric values for each potential pollutant necessary to protect various wide-ranging industrial and irrigation uses is unreasonable to complete on a statewide basis. Therefore, the main component of the changes to both the Class 3 and Class 4A WQS is a move away from the existing one-size-fits-all numeric standard to a narrative standard coupled with a robust implementation approach that takes advantage of available information and tools to implement the WQS as location-specific protective values. The revisions include specific procedures for implementation of each of these WQS through permit processes, with the procedures incorporated by reference into the rules.

In the case of the Class 4B WQS for wildlife and livestock watering, numeric values are appropriate and supported. Therefore the MPCA is proposing to update the Class 4B WQS to reflect current science and agricultural best practices, replacing the total salinity standard with a total dissolved solids standard, and adding sulfate and nitrate + nitrite standards.

The MPCA is also proposing various other changes to clarify the water quality standards, the uses they protect, and their implementation.

Comments. You and all interested or affected persons, including representatives of associations and other interested groups, will have an opportunity to participate. The administrative law judge will accept your comments either orally at the hearing or in writing at any time before the hearing record closes. Please submit written comments **to the administrative law judge via the Office of Administrative Hearings Rulemaking eComments website at <https://minnesotaoah.granicusideas.com/discussions>**. If it is not possible for you to use the eComments website, you may submit your written comments in person, by U.S. mail, or by fax to the judge using the contact information contained in the Administrative Law Judge section of this notice. Any comments or materials that you present or submit must relate to the proposed rules.

After the hearing, you may submit written comments to the administrative law judge using the eComments website (the preferred method) or by mail, fax, or personal delivery. These comments must be submitted within five working days after the hearing date. At the hearing, the administrative law judge may order this five-day comment period be extended for no more than 20 calendar days.

After the comment period ends, there is an additional five-working-day rebuttal period during which the MPCA and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period.

All comments and responses must be submitted no later than 4:30 p.m. on the due date. All comments or responses received are public and will be available for review at <https://minnesota.oah.granicusideas.com/discussions>.

You may learn more about the OAH Rulemaking eComments website, including step-by-step instructions and frequently asked questions at <https://mn.gov/oah/forms-and-filing/ecomments/>. Questions about submitting comments via the OAH Rulemaking eComments website should be directed to the OAH at 651-361-7900.

Please note that comments regarding the MPCA's proposal must be sent to the ALJ. Comments sent to the MPCA alone will not be part of the rulemaking record. Comments submitted after the close of the comment period will not be accepted or considered part of the record.

Modifications. The MPCA may modify the proposed rules as a result of the rule hearing process. It must support modifications by data and views presented during the rule hearing process. The adopted rules may not be substantially different than these proposed rules, unless the MPCA follows the procedure under *Minnesota Rules*, part 1400.2110. The public is also advised that depending upon the comments received the MPCA may withdraw the proposed changes.

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

Availability of Rules. A copy of the proposed rules is published in the *State Register* after this notice, or they can be viewed on the MPCA public notice webpage at <https://www.pca.state.mn.us/public-notices>, and at <https://www.pca.state.mn.us/water/amendments-water-quality-standards-use-classifications-3-and-4>. A free copy of the proposed rules is also available upon request by contacting the [MPCA contact person](#). One copy per request will be sent.

Availability of Statement of Need and Reasonableness. The statement of need and reasonableness (SONAR) summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The SONAR can be viewed at the MPCA's website at <https://www.pca.state.mn.us/public-notices>, and at <https://www.pca.state.mn.us/water/amendments-water-quality-standards-use-classifications-3-and-4>. A print copy is available for the cost of reproduction by contacting the MPCA contact person.

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 or if you need an accommodation to make this hearing accessible, please contact the [MPCA contact person](#).

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions regarding this requirement to the Campaign Finance and Public Disclosure Board at Suite #190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-539-1180 or 1-800-657-3889.

Statutory Authority. The proposed rules are authorized by *Minnesota Statutes*, sections 115.03 and 115.44.

Adoption Procedure after the Hearing. After the close of the hearing record, the ALJ will issue a report on the proposed rules. You may ask to be notified of the date when the ALJ's report will become

available, and can make this request at the hearing or in writing to the ALJ. You may also ask to be notified of the date that the MPCA adopts the rules and files them with the Secretary of State, or ask to register with the MPCA to receive notice of future rule proceedings. You may make these requests at the hearing or in writing to the [MPCA contact person](#).

Order. I order that the rulemaking hearing be held at the date, time, and location listed above.

Laura Bishop, Commissioner
Minnesota Pollution Control Agency