MINNESOTA
COURT OF
ADMINISTRATIVE
HEARINGS

Public Hearing – November 2, 2026

Proposed Rules Governing Water Quality Standards for Lake Aquatic Life and Recreation

Revisor's ID No. R04740

CAH Docket No. 23-9003-39503

Introduction

- **CAH** is an independent, executive branch court that renders justice through fair, timely, and impartial hearings and high-quality dispute resolution services.
- **CAH** is independent from the Minnesota Pollution Control Agency and all other parties to this proceeding.
- **Hearing Purpose:** to allow the agency to present its case and to receive public comments

Administrative Law Judge
Suzanne Todnem

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Your Participation Matters

- Public participation in the rulemaking process is **essential** to the development of **fair** and **thoughtful** public policy.
- Pursuant to Minn. Stat. Ch. 14, this hearing is being conducted so that the public can **participate** and **be heard**.
- **Thank you** for contributing your thoughts, experience, and expertise.



Key Issues

1. Does the Agency have legal authority to adopt the rules?
2. Has the Agency fulfilled all relevant legal and procedural requirements to promulgate the rules?
3. Has the Agency demonstrated the need and reasonableness of each portion of the proposed rules?



Roadmap for Today



- My remarks
- Introduce panel
- Agency exhibits and presentation
- Public questions and comments

Agency Panel

- Michelle Janson, Senior Associate General Counsel
- Will Bouchard, Research Scientist

- Katie Izzo, Rule Coordinator

Agency Exhibits



Agency exhibits from this hearing are available to view at

https://www.pca.state.mn.us/get-engaged/lake-aquatic-life-and-recreation

Ways to Comment

(1) Offer **oral comments** at this hearing

(2) Offer **written comments** electronically, by mail, or by fax

Electronically at: www.minnesotaoah.granicusideas.com/discussions

By **U.S. mail** to:

Court of Administrative Hearings
Attn: Judge Suzanne Todnem
P.O. Box 64620
St. Paul, MN 55164-0620

By **Fax** to 651-539-0310

Preferred Method for Written Comments

eComments is the preferred method for submitting written comments.

Presenting Oral Comments

In WebEx

- At the bottom right side of your computer screen, click on the **chat** icon.
- Type your first and last name in the **chat** to request to speak.
- **Chat** will go directly to the host, who will put you in queue and unmute your microphone when it is your turn.

By Telephone

- Press ***3** on your keypad to indicate your interest in joining the queue to speak. Pressing *3 again will undo it.
- The WebEx host will place you into the queue in the order received; when it is your turn, the host will say the first 6 digits of your phone number and unmute your line.
- State and spell your first and last name for the record before commenting.

Process for Presenting Oral Comments

- For those attending by WebEx, **turn on your video** by clicking the video icon.
- To ensure everyone is heard, please try to limit your initial comments to 5 minutes.
- You may return to the queue to speak again, time permitting. (Preference will be given to those who have not spoken yet.)
- Our objective during the hearing process is to hear from as many different people, and on as wide a range of topics, as our time together permits.

Remember – Other Ways to Comment

- You may also submit written comments by **eComments**, **mail**, or **fax**.
- If you are unable to comment today, please know that all comments are considered in the same way regardless of the way they are submitted.



Tips for Oral Comments

- State and spell your first and last name
- If you are commenting on behalf of an organization, identify the organization
- Speak slowly, clearly, and loudly - only audible statements will be recorded
- Spell names and technical terms
- Introducing an acronym? Be sure to state the full phrase



Recordkeeping

- The court reporter's transcript is the official record of the hearing
- The judge and the agency will cite to the transcript
- The transcript will include your comments, and the judge may quote you in the report



Comment Deadline



Post-hearing comment period closes

November 23, 2026

Comments must be <u>received</u> by 4:30 p.m. on that day

Rebuttal Comment Deadline



Rebuttal is a reply to something someone else said - not a new comment.

5 business days from close of comment period on November 23, 2026

Rebuttals must be <u>received</u> by 4:30 p.m. on December 2, 2026

Judge's Report



- Judge will issue a report
- Within 30 days of the close of the record, unless extension is granted
- You can view the report at mn.gov/cah/media/opinion-archive.jsp

  OR tinyurl.com/cah-archive

Required Reminder for Lobbyists



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- Lobbyists must register with the Campaign Finance and Public Disclosure Board.
- Questions about registration should be directed to that Board
- www.cfb.mn.gov

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Agency Panel

mn.gov/cah

Exhibits

- Purpose:
  - Document legal authority of the MPCA to adopt the proposed rule;
  - Demonstrate that the agency has fulfilled all relevant legal and procedural requirements; and
  - Demonstrate the need for and reasonableness of each portion of the proposed rules.

List of exhibits

Exhibit	Description
A	The September 18, 2023, Request for Comments
B	Petition for Rulemaking (N/A)
C	Proposed rule, including Revisor's approval
D	Statement of Need and Reasonableness (SONAR) and SONAR Exhibits
E	Letter mailing the SONAR to the Legislative Reference Library
F	The Notice of Hearing
G	Certificate of Sending Notice of Hearing and Certificate of Accuracy
H	Certificates of Giving Additional Notice under the Additional Notice Plan
I	Written comments received, and MPCA response
J	Chief ALJ authorization for omission of proposed text, if applicable (N/A)
K	Any other documents or evidence to show compliance with law or rule
L	Comments and materials submitted during the hearing

Statutory Authority

- Clean Water Act requires states to establish water quality standards (33 USC § 1313)
- Minnesota Statutory Authority:
  - Minn. Stat. § 115.44: MPCA authority to classify waters of the state
  - Minn. Stat. § 115.03: MPCA authority to establish/alter standards for any water of the state and to perform all acts necessary to participate in delegated Clean Water Act programs (e.g., NPDES/permitting)





Revisions to Minnesota's lake water quality standards

Northern lake eutrophication standards, coldwater lake standards, tiered aquatic life uses, and other housekeeping revisions

https://www.pca.state.mn.us/get-engaged/lake-aquatic-life-and-recreation

MINNESOTA POLLUTION CONTROL AGENCY

November 2, 2026

Presentation Outline

1) Overview of water quality standards
2) Rule amendment topics
   - Revisions to northern polymictic (shallow) lake standards
   - Revisions to coldwater lake standards and designations
   - Adoption of Tiered Aquatic Life Uses (TALU) framework for lakes and designation of TALUs
   - Housekeeping revisions
3) Summary of comments received and revisions to proposed rules



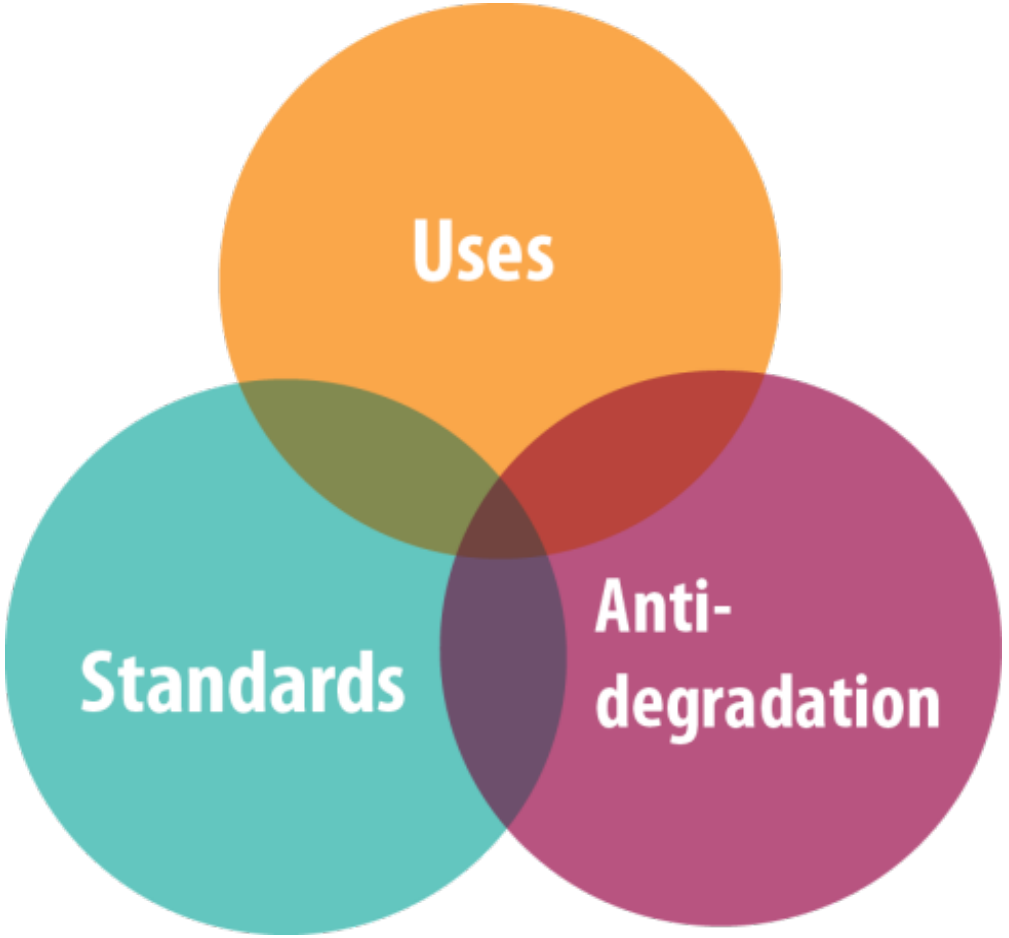
Water Quality Standards Overview

A fundamental tool of the Clean Water Act

Water quality standards

Address three key questions:

- What and who are we protecting?
- What conditions are protective?
- How do we maintain high water quality?



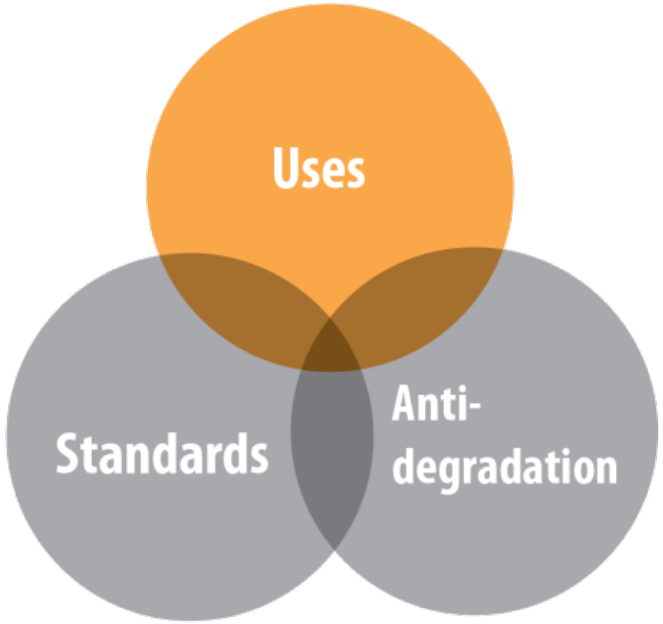
The proposed rule amendments do not amend antidegradation rules

Beneficial Uses

An important beneficial use that protects fish, insects, mussels, plants, ecosystem services, swimming, boating, fishing, and other uses

Seven use classes in MN Rules*:

1. Drinking water
2. Aquatic life and recreation
3. Industrial use and cooling
4. Agricultural and wildlife use
5. Aesthetics and navigation
6. Other uses
7. Limited resource value



Class numbers do not imply priority ranking





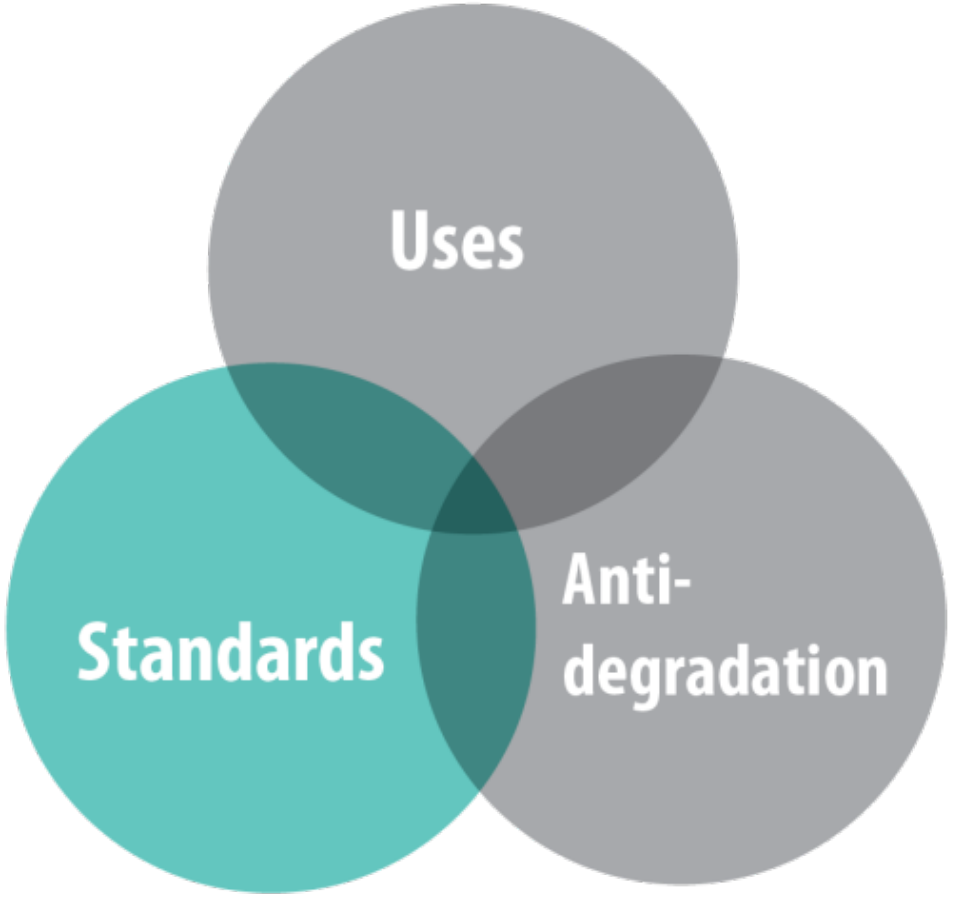




What conditions are protective?

Standards

- What conditions are needed to support beneficial uses (e.g., 5.0 mg/L dissolved oxygen as a daily minimum to protect aquatic life)
- Can be statewide, region specific, habitat type specific, or site specific



Need for revisions to lake uses and standards

- Add additional protections to important and sensitive lakes
- Refine beneficial uses and their associated standards to better fit the aquatic resources in Minnesota
- These revisions will ensure that appropriate standards are applied and will lead to better management outcomes for the protection of aquatic life and recreation



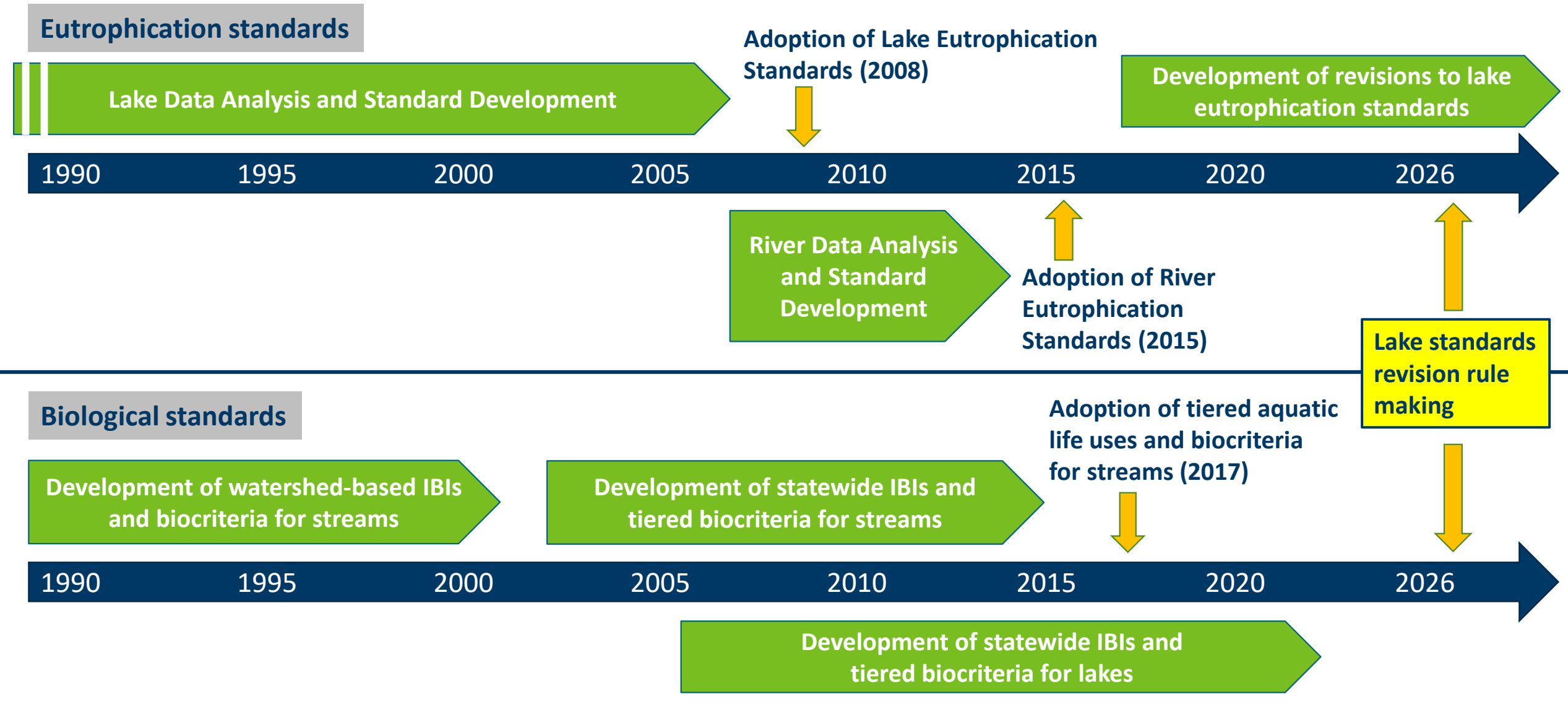
Lake water quality standards revision scope

Three main topics to be addressed:

1) **Development of separate eutrophication standards for northern polymictic (shallow) lakes**
   → Currently there is no distinction between dimictic (“deep”) and polymictic (shallow) lakes in the northern region as in other regions
2) **Protections for non-trout, coldwater fishes in lakes**
   → There is a need to address gaps in protection for coldwater fishes which are impacted by both eutrophication and temperature
3) **Tiered aquatic life uses for lakes**
   → Codify biological criteria for lakes and adopt goals for high quality lakes

Includes additional housekeeping changes to Minn. R. 7050

Minnesota's Eutrophication and Biological Standards Development Timeline





Revisions to northern polymictic lake eutrophication standards







Lake classification and nomenclature

Dimictic lakes: mix twice a year in the spring and fall and are stratified during the summer and winter

Polymictic lakes (shallow): frequent mixing of the water column during the ice-free period





Current lake eutrophication standards (LES)

Lake type	Region	Class	Stratification	Lake eutrophication standards		
				Total phosphorus	Chlorophyll-*a*	Secchi depth
Lake trout	North	2A	Dimictic	12	3	4.8
Stream trout	North	2A	All	20	6	2.5
Warmwater	North	2B/2Bd	All	30	9	2.0
Stream trout	Central	2A	All	20	6	2.5
Warmwater	Central	2B/2Bd	Dimictic	40	14	1.4
Warmwater	Central	2B/2Bd	Polymictic	60	20	1.0
Warmwater	South	2B/2Bd	Dimictic	65	22	0.9
Warmwater	South	2B/2Bd	Polymictic	90	30	0.7



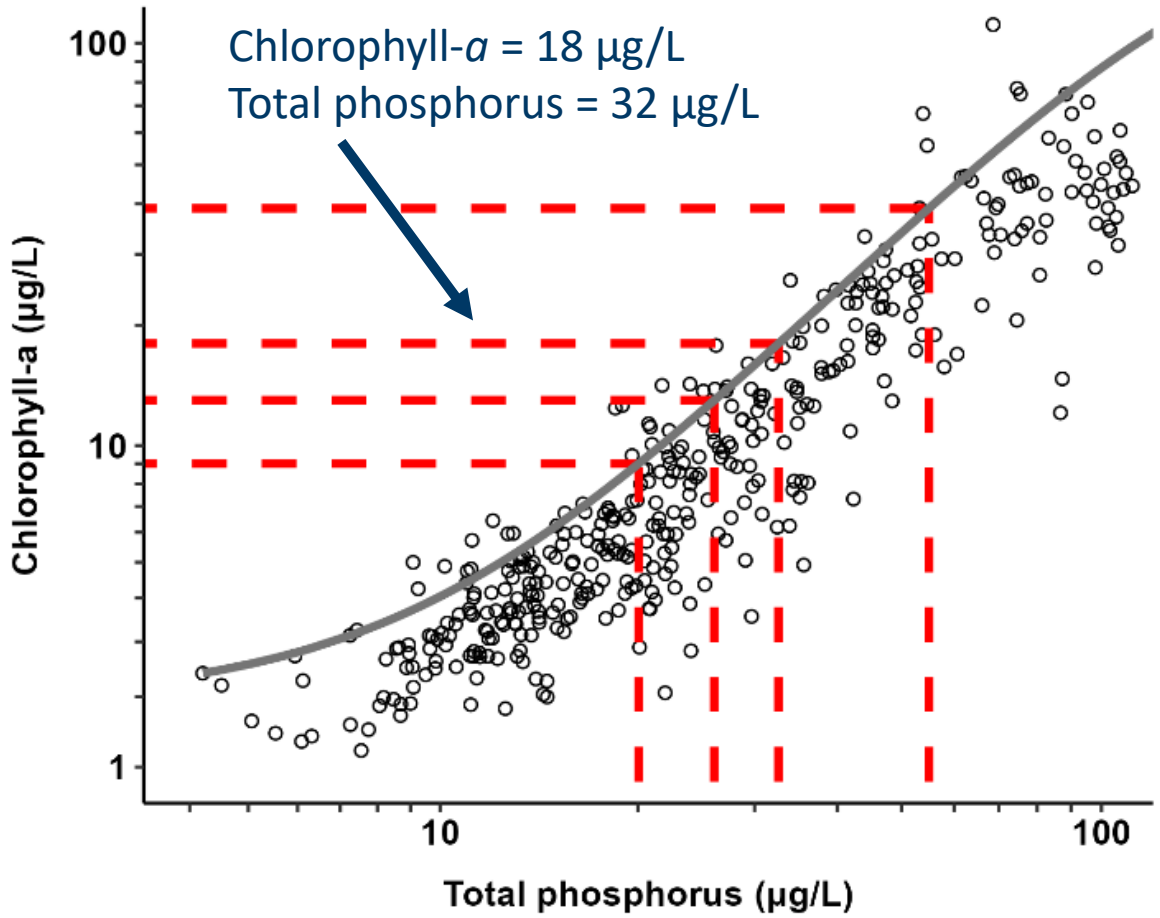
Northern lake eutrophication criteria

Most sensitive indicators

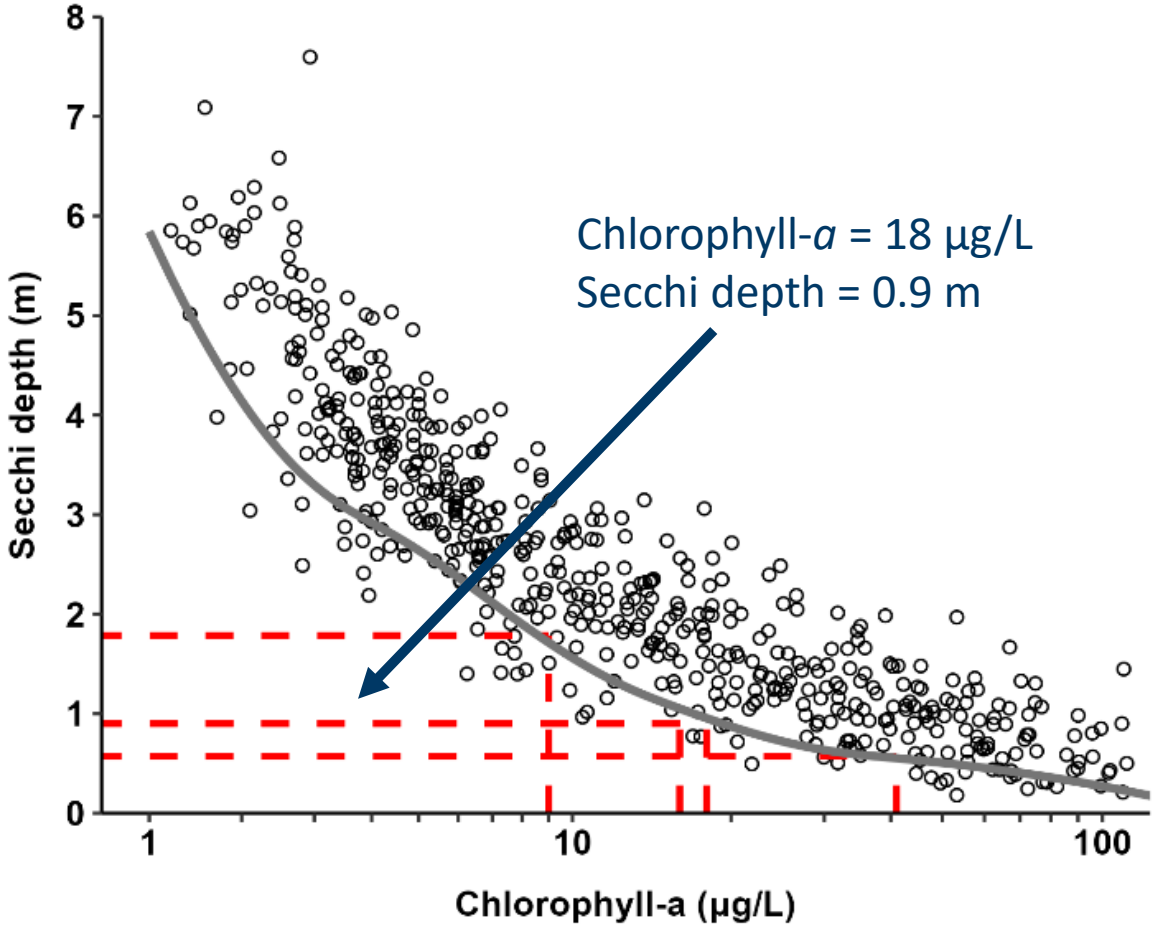
Beneficial Use	Description	Chlorophyll-*a* (µg/L)
Aquatic life and recreation	Current northern lakes standard (dimictic and polymictic lakes)	9
Polymictic northern lakes		
Aquatic life	Macrophytes	18
Aquatic life	Fish: Index of biological integrity	18
Recreation	Recreational suitability	39
Dimictic northern lakes		
Aquatic life	Macrophytes	13
Aquatic life	Fish: Index of biological integrity	9
Recreation	Recreational suitability	13

Total phosphorus and Secchi depth criteria

90th percentile quantile regression



10th percentile quantile regression



Statewide lake data (dimictic and polymictic lakes)
Average concentration (minimum of 2 years with at least 4 samples per year)
Chl-*a*-Secchi dataset censored for lakes with color >25 PCU or a_{440} >1.4 m^{-1}

Northern lake eutrophication criteria

Most sensitive indicators

Beneficial Use	Description	Total phosphorus (µg/L)	Chlorophyll-*a* (µg/L)	Secchi depth (m)
Aquatic life and recreation	Current northern lakes standard (dimictic and polymictic lakes)	30	9	2.0
Polymictic northern lakes				
Aquatic life	Macrophytes	32	18	0.9
Aquatic life	Fish: Index of biological integrity	32	18	0.9
Recreation	Recreational suitability	55	39	0.6
Dimictic northern lakes				
Aquatic life	Macrophytes	26	13	1.2
Aquatic life	Fish: Index of biological integrity	20	9	1.8
Recreation	Recreational suitability	26	13	1.2



Revisions to coldwater lake standards





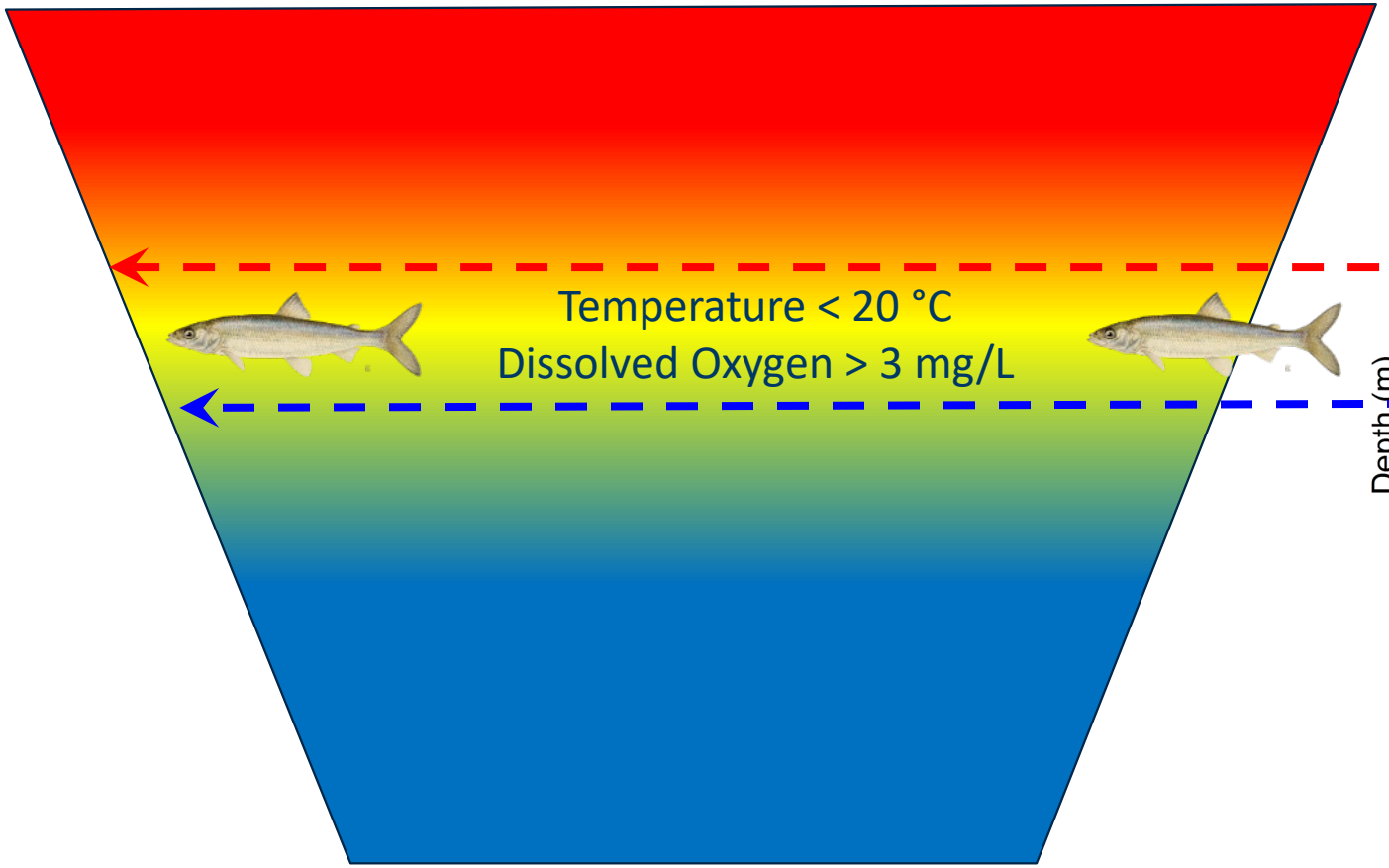


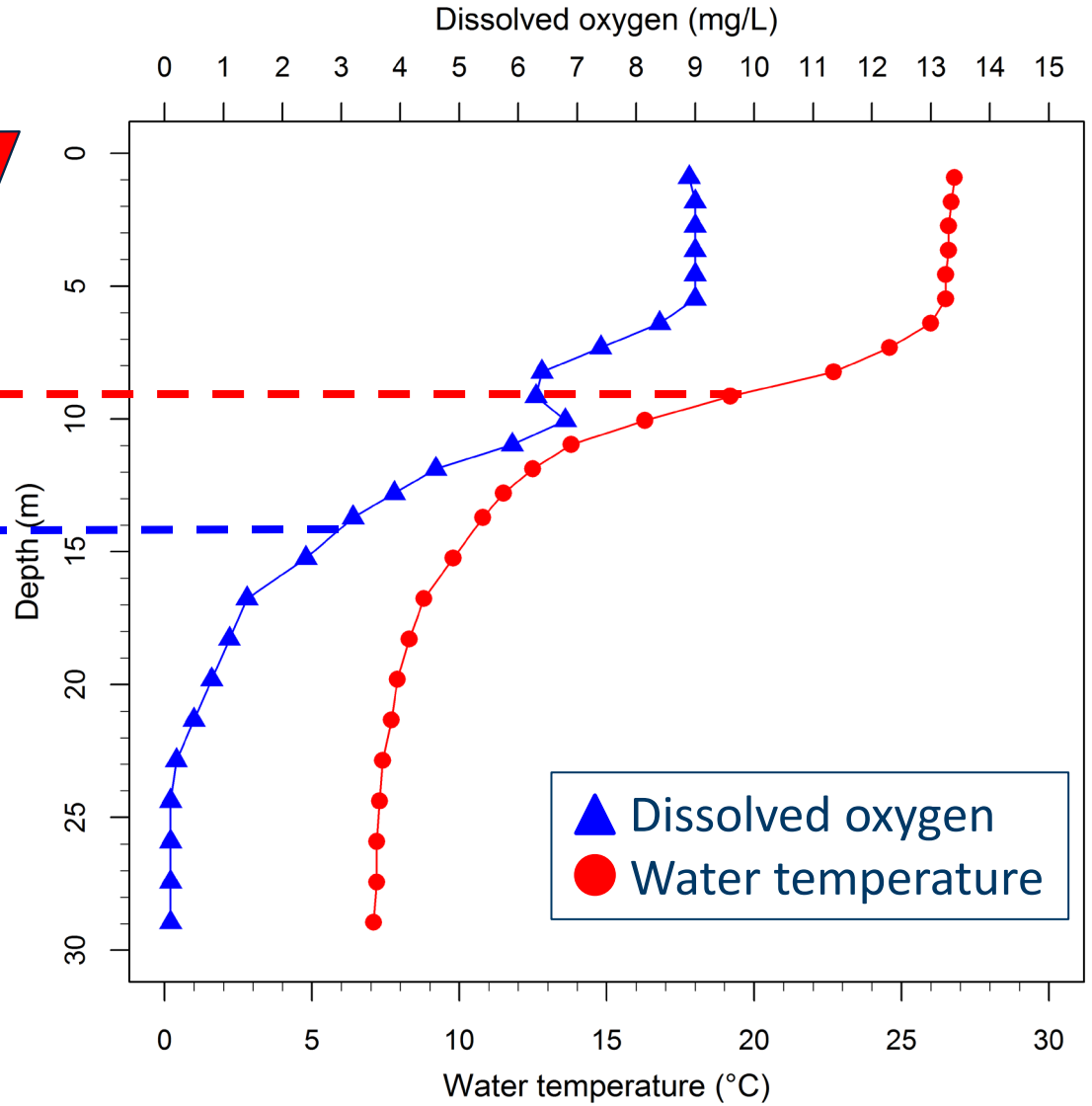
Coldwater lakes

Lake type	Region	Class	Stratification	Lake eutrophication standards		
				Total phosphorus	Chlorophyll-*a*	Secchi depth
Lake trout	North	2A	Dimictic	12	3	4.8
Stream trout	North	2A	All	20	6	2.5
Warmwater	North	2B/2Bd	All	30	9	2.0
Stream trout	Central	2A	All	20	6	2.5
Warmwater	Central	2B/2Bd	Dimictic	40	14	1.4
Warmwater	Central	2B/2Bd	Polymictic	60	20	1.0
Warmwater	South	2B/2Bd	Dimictic	65	22	0.9
Warmwater	South	2B/2Bd	Polymictic	90	30	0.7

- Lakes managed for trout have more stringent water quality standards
- Lakes without trout, but with Cisco or Lake Whitefish fall under Minnesota's warm water lake standards
- A gap in protections for these sensitive and important fish species

Coldwater fish requirements





Proposed coldwater fish criteria

Coldwater lake type	T_{DO3} (°C)	Total phosphorus (µg/L)	Chlorophyll-*a* (µg/L)	Secchi depth (m)
Lake trout lakes	8.8	7	3*	3.5
Lake whitefish lakes	17.2	12	5	2.8
Cisco lakes	21.2	25	12	1.3
Stream trout lakes	-	15	6*	2.5







* no change from current standard

Coldwater habitat use designations

Current Use	Proposed Use	# of Lakes	Type
2B/2Bd	$2A^{LAT/LKW/TLC/SRT}$	411	New 2A designation
$2A^{LAT/SRT}$	$2A^{LAT/SRT}$	207	Species confirmation
$2A^{LAT/SRT}$	$2A^{LAT/LKW/TLC/SRT}$	88	Species modification
$2Bd^{LAT}$	2Bd	2	Species modification
$2A^{LAT/SRT}$	2Bd	23	2Bd designation

Class 2A: coldwater aquatic habitat

Class 2B/2Bd: cool and warm water aquatic habitat; 2Bd also protected as a source for drinking water

Fish species: LAT = Lake Trout; LKW = Lake Whitefish; TLC = Tullibee Cisco; SRT = stream trout

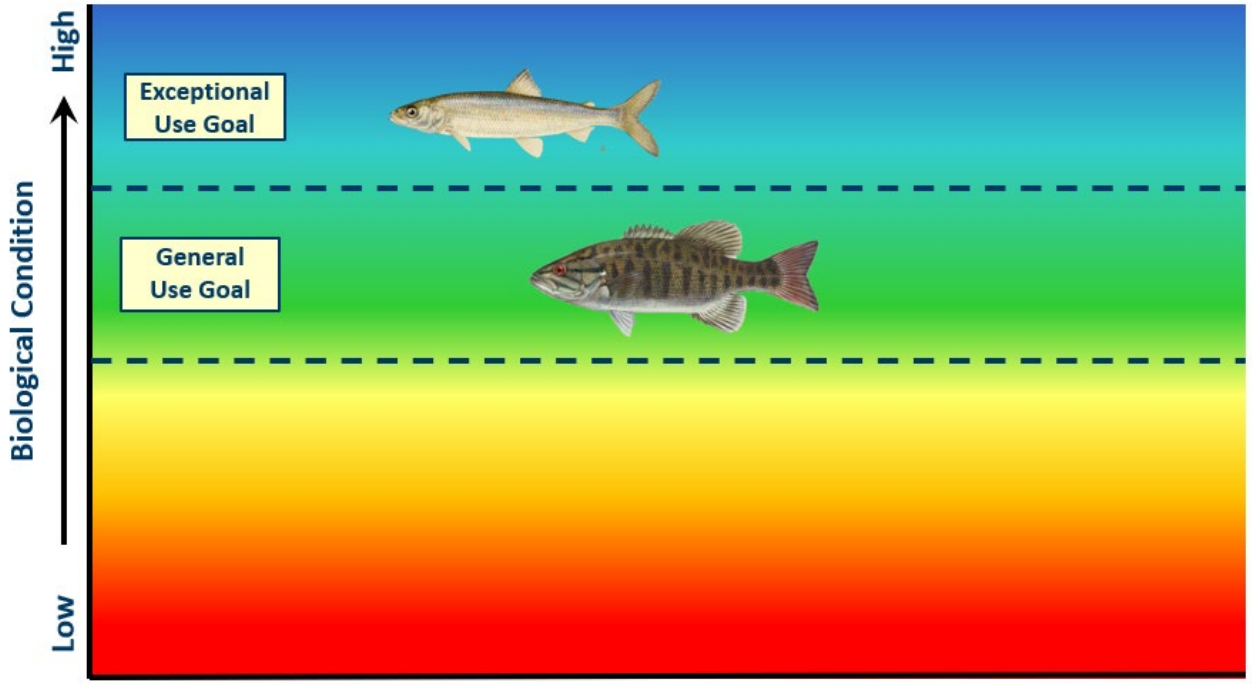
Revisions to lake standards

New lake types

Lake type	Region	Class	Stratification	Aquatic life			
				T_{DO3}	TP	Chl-a	Secchi
Lake trout	North	2A	Dimictic	8.8	7	3	3.5
Lake whitefish	North	2A	Dimictic	17.2	12	5	2.8
Cisco	North	2A	Dimictic	21.2	25	12	1.3
Stream trout	North	2A	All		15	6	2.5
Warmwater	North	2B	Dimictic		20	9	1.8
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Warmwater	Central	2B	Polymictic		60	20	1.0
Warmwater	South	2B	Dimictic		65	22	0.9
Warmwater	South	2B	Polymictic		90	30	0.7

Blue highlight = new standard or lake type

Yellow highlight = modification to existing standard



Tiered aquatic life uses for lakes

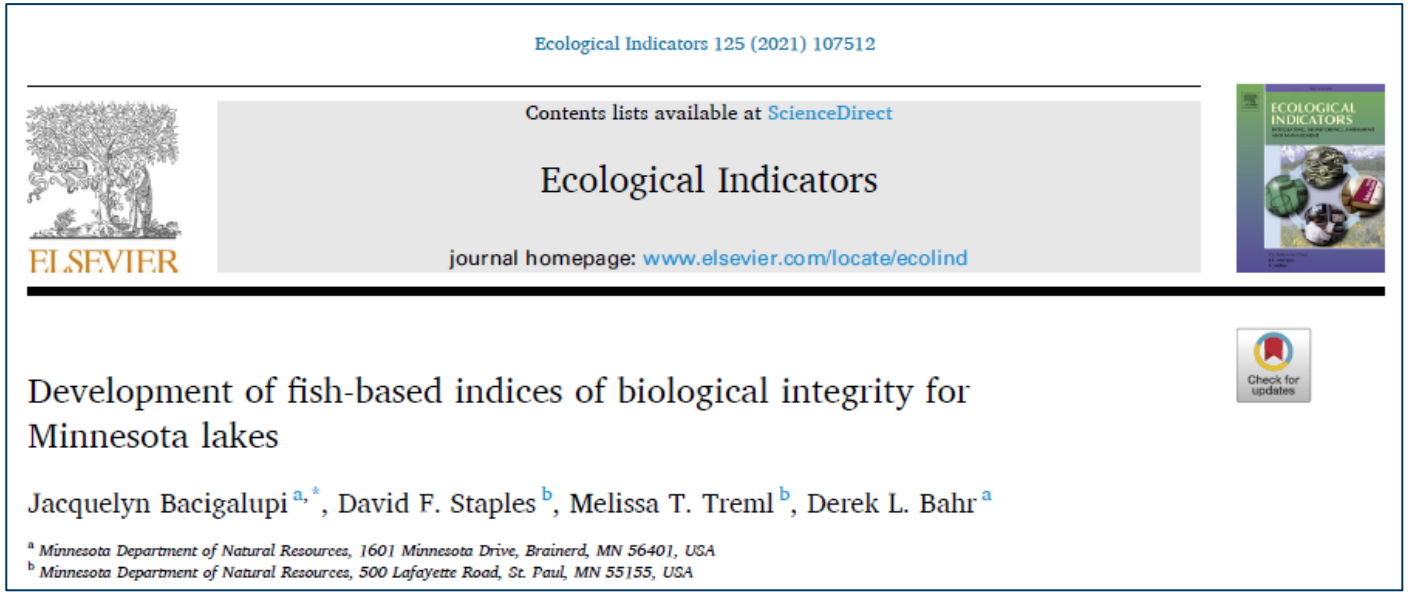






Tiered Aquatic Life Uses (TALU) for lakes

- Adopt a TALU framework for lakes (similar to the stream TALU framework already adopted)
- Codifies fish sampling methods, data analysis methods, and biological criteria currently used to assess lake biology
- Adds an Exceptional Use tier to protect high-quality lakes
- Rule includes the designation 36 Exceptional Use lakes



Ecological Indicators 125 (2021) 107512

Contents lists available at ScienceDirect

Ecological Indicators

journal homepage: www.elsevier.com/locate/ecolind

Development of fish-based indices of biological integrity for Minnesota lakes

Jacquelyn Bacigalupi [a,*], David F. Staples [b], Melissa T. Treml [b], Derek L. Bahr [a]

[a] Minnesota Department of Natural Resources, 1601 Minnesota Drive, Brainerd, MN 56401, USA
[b] Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155, USA

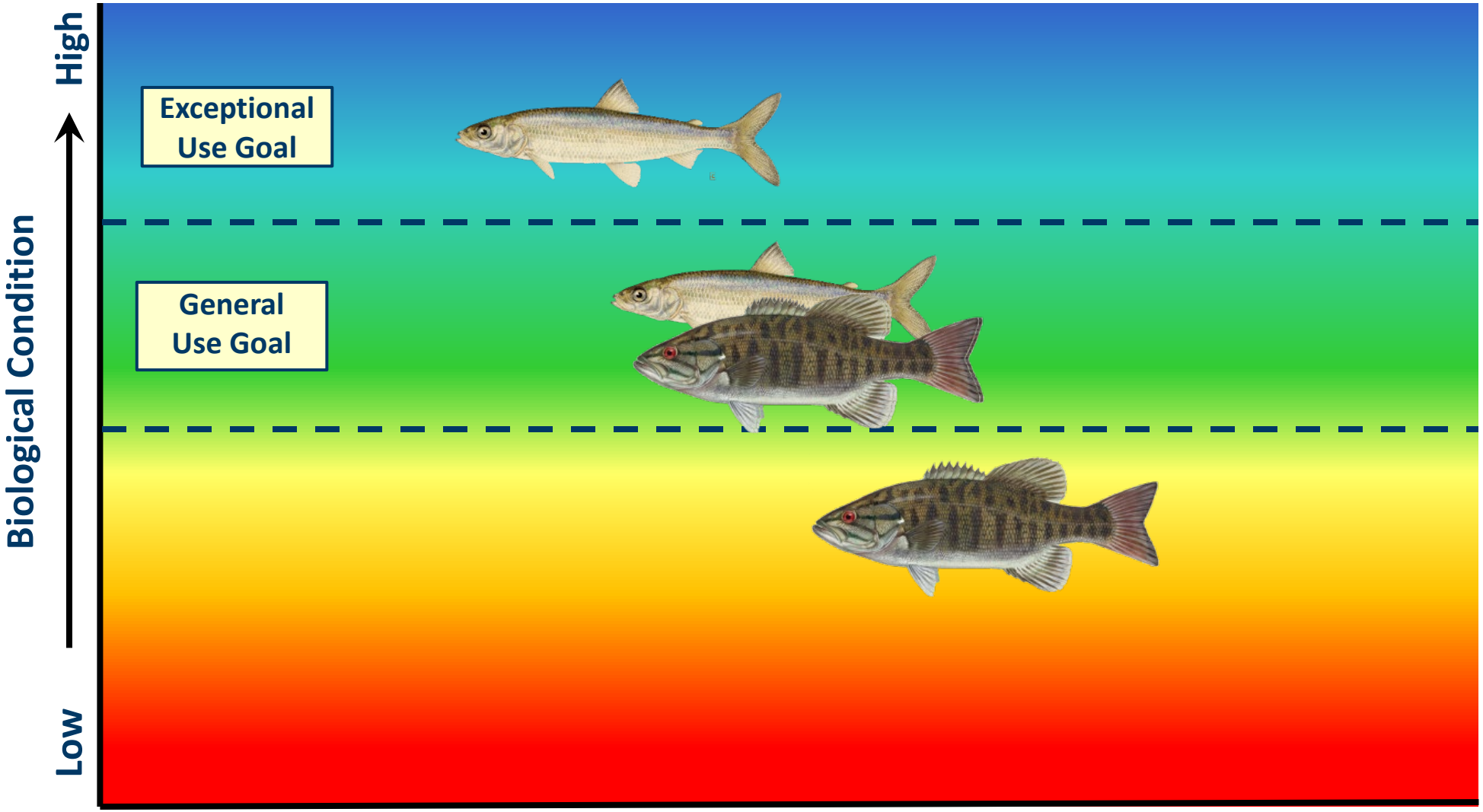








Tiered Aquatic Life Use Assessments



Other housekeeping revisions

- Update incorporation by reference links in Minn. R. 7050
- Incorporate lake use designations by reference in Minn. R. 7050.0470
- Correct errors to some river eutrophication standards
- Clarify extent of site-specific eutrophication standards for some Mississippi River reaches

Summary of comments received

1) Support for rule amendments
2) Requests for clarification and additional information on the proposed rules and their implementation (MPCA responses provided in Exhibit I-2)
3) Concerns expressed include:
   - **Strengthen protection** of lakes through the implementation of macroinvertebrate assessments, additional oversight of herbicide treatments, and ongoing management toward lake improvements
   - Lake standards need to **address natural differences and variability** in aquatic resources and assign reasonable and attainable goals; the uniqueness of habitats requires **involvement of local experts**
   - Request to ensure that **lake classification and use designation decisions are transparent and reviewable**
   - Flood damage reduction and multipurpose water management **projects must remain feasible**
   - The proposed coldwater lake standards are only **minimally protective**

Minn. R. 7050.0150
Changes to proposed rule language

~~MM. "Shallow lake" means an enclosed basin filled or partially filled with standing fresh water with a maximum depth of 15 feet or less or with 80 percent or more of the lake area shallow enough to support emergent and submerged rooted aquatic plants (the littoral zone). It is uncommon for shallow lakes to thermally stratify during the summer. The quality of shallow lakes will permit the propagation and maintenance of a healthy indigenous aquatic community and they will be suitable for boating and other forms of aquatic recreation for which they may be usable. Shallow lakes are differentiated from wetlands and lakes on a case-by-case basis. Wetlands are defined in part 7050.0186,subpart 1a.~~

Minn. R. 7050.0222
Changes to proposed rule language

Subp. 3d. **Biological criteria for lotic warm or cool water aquatic life and habitats (class 2Bd).**

Water Body Type	Tier	Class	Assemblage		Biocriterion
…		…	…	…	…
Deep, complex lakes		Exceptional	2BdAe	Fish	64
		General	2BdAg	Fish	45
Deep, moderately complex lakes		Exceptional	2BdAe	Fish	59
		General	2BdAg	Fish	38
Moderately deep lakes		General	2BdAg	Fish	24
Shallow lakes		General	2BdAg	Fish	36

…

Subp. 4d. **Biological criteria for lotic warm or cool water aquatic life and habitats (class 2B).**

Water Body Type	Tier	Class	Assemblage		Biocriterion
…		…	…	…	…
Deep, complex lakes		Exceptional	2BAe	Fish	64
		General	2BAg	Fish	45
Deep, moderately complex lakes		Exceptional	2BAe	Fish	59
		General	2BAg	Fish	38
Moderately deep lakes		General	2BAg	Fish	24
Shallow lakes		General	2BAg	Fish	36

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Thank you!

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Public Questions and Comments

Administrative Law Judge
Suzanne Todnem

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- In **WebEx**, put your name in the **Chat** box to request to speak and be placed in the queue
- To comment by **phone**, press ***3** to be placed in the queue
  - Press *3 again if you would like to remove yourself from the queue

Comment Deadline Reminder



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4:30 p.m. on

November 23, 2026

Rebuttals must be received by

4:30 p.m. on

December 2, 2026

Docket No. 23-9003-39503

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Brief Intermission

Our Hearing Will Resume Soon

To be added to the speaking queue:

Via Webex: Type your name into the Chat box

Via Phone: Dial *3

We will unmute you when it is your turn to provide verbal comments or questions.