DECISION DOCUMENT FOR THE PARTIAL APPROVAL OF MINNESOTA'S 2020 CLEAN WATER ACT SECTION 303(d) LIST

The U.S. Environmental Protection Agency has conducted a review of Minnesota's 2020 Clean Water Act (CWA), 33 U.S.C. § 1251 *et seq.*, Section 303(d) list (Minnesota 2020 303(d) list), and supporting documentation and information (303(d) list), which Minnesota submitted on February 25, 2021. Based on this review, EPA is partially approving and partially disapproving Minnesota's 2020 list.

Based on our review, EPA concludes that Minnesota's list of water quality limited segments (WQLSs) still requiring total maximum daily loads (TMDLs) is complete with the exception described below, and EPA approves the listing of waters on Minnesota's 303(d) list in Appendix 1 of the Decision Document because Minnesota's decisions for those waters are consistent with Clean Water Act Section 303(d) and EPA's implementing regulations at 40 Code of Federal Regulations (C.F.R.) § 130.7. EPA reviewed Minnesota's decisions not to list water segments based on Minnesota's conclusion that the readily available data and information do not require the identification of those water bodies as impaired. With the exceptions noted in the following paragraph, Minnesota's decision not to list these water bodies is reasonable.

EPA reviewed Minnesota's decision not to list WQLSs based on Minnesota's conclusion that Minnesota state law bars the Minnesota Pollution Control Agency (MPCA) from assessing or listing waters against Minnesota's federally-approved 10 mg/L standard applicable to "waters used for production of wild rice during periods when the rice may be susceptible to damage by high sulfate levels."[1] EPA disapproves Minnesota's decision not to identify on the list certain WQLSs for sulfate impairment because the existing and readily available data and information for those WQLSs indicate impairments for the numeric water quality criterion for sulfate.[2] Minnesota's decision to exclude these waters is inconsistent with CWA Section 303(d) and the implementing regulations.

Therefore, EPA concludes that, with the exceptions discussed in Section II.F.[3] of this Decision Document, Minnesota properly assembled and evaluated existing and readily available data and information, including data and information relating to categories of waters specified at 40 C.F.R. § 130.7(b)(5); Minnesota submitted a methodology in 2020 that outlines how it uses readily available data and information to make assessment and impairment decisions; Minnesota provided a rationale for not relying on particular existing and readily available water quality related data and information in appropriate instances; and Minnesota demonstrated good cause in choosing to not include certain WQLSs on its 2020 303(d) list.

EPA's approval of Minnesota's 2020 303(d) list extends to those water bodies identified in Appendix 1 of this Decision Document, with the exception of those waters that are within Indian Country as defined in 18 U.S.C. § 1151. EPA is taking no action to approve or disapprove the State's list with respect to

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[1] Minnesota Rule 7050.0224, subparts 1 and 2.

[2] MPCA, Responses to the 2020 Draft Impaired Waters List, Public Notice Comments (February 25, 2021), p. 2 of 12 [responses to public comments 5, 6, 8, 10, 11, 13, 15, and 19]; Letter from Tera L. Fong, EPA, to Katrina Kessler, MPCA, March 9, 2021; Letter from Katrina Kessler, MPCA, to Tera L. Fong, March 15, 2021.

[3] Minnesota has a federally-approved sulfate water quality standard (Minn. R. 7050.0224 subparts 1 and 2) and EPA expects Minnesota assess the attainment status of waters against its current sulfate criterion.

those waters that are within Indian Country. EPA or eligible Indian Tribes, as appropriate, will retain responsibilities under Section 303(d) for those waters.

The statutory and regulatory requirements and EPA's review of Minnesota's compliance with each requirement are described in this Decision Document.

Table of Contents

I. Statutory and Regulatory Background

A. Identification of Water Quality Limited Segments for Inclusion on the Minnesota 2020 303(d) List

Section 303(d)(1) of the CWA directs states to identify those waters within their jurisdiction for which effluent limitations required by Section 301(b)(1)(A) and (B) are not stringent enough to implement any applicable water quality standard (WQS) and to establish a priority ranking for such waters, considering the severity of the pollution and the intended uses of such waters. The Section 303(d) listing requirement applies to waters impaired by point sources and/or nonpoint sources, pursuant to EPA's long-standing interpretation of Section 303(d).[4]

EPA regulations provide that states do not need to list waters for which the following controls are adequate to implement applicable standards: (1) technology-based effluent limitations required by the CWA, (2) more stringent effluent limitations required by state or local authority, and (3) other pollution control requirements required by state, local, or federal authority.[5]

B. Consideration of Existing and Readily Available Water Quality-Related Data and Information

In developing CWA 303(d) lists, states are required to assemble and evaluate all existing and readily available water quality-related data and information including, at a minimum, data and information regarding the following categories of waters: (1) waters identified as partially meeting or not meeting designated uses or identified as threatened in the states' most recent Section 305(b) report; (2) waters for which dilution calculations or predictive modeling indicate nonattainment of applicable standards; (3) waters for which water quality problems have been reported by governmental agencies, members of the public, or academic institutions; and (4) waters identified as impaired or threatened in any Section 319 nonpoint assessment submitted to EPA.[6] In addition to these minimum categories, states are required to consider any other data and information that are existing and readily available. EPA's 1991 *Guidance for Water Quality-Based Decisions* describes such data and information.[7] While states are required to evaluate all such data, states may decide whether to rely on particular data or information in determining whether to list (i.e., include the specified water body and pollutant parameter on 303(d) list) particular waters.[8]

EPA regulations at 40 C.F.R. § 130.7(b)(6) also require states to submit to EPA documentation to support the states' decisions whether to rely on particular data and information and whether to list waters. Such documentation must include, at a minimum, the following information: (1) a description of

[4] U.S. EPA, Office of Water, *Guidance for Water Quality-Based Decisions: The TMDL Process*, EPA 44014-91-001, April 1991 (hereafter, EPA's 1991 Guidance); U.S. EPA, Office of Water, *EPA Guidelines for Preparation of the Comprehensive State Water Quality Assessments (305(b) Reports) and Electronic Updates: Supplement*, EPA-841-B-97-002B, September 1997.
[5] 40 C.F.R. § 130.7(b)(1).
[6] 40 C.F.R. § 130.7(b)(5).
[7] EPA's 1991 Guidance.
[8] EPA's 1991 Guidance.

the methodology used to develop the list; (2) a description of the data and information used to identify waters; and (3) any other reasonable information requested by EPA.[9]

C. Priority Ranking

EPA regulations codify and interpret the requirement in Section 303(d)(1)(A) of the CWA that states establish a priority ranking for listed waters. The regulations at 40 C.F.R. § 130.7(b)(4) require states to prioritize waters on their Section 303(d) lists for TMDL development, and also to identify those WQLSs targeted for TMDL development in the next two years. In prioritizing and targeting waters, states must, at a minimum, take into account the severity of the pollution and the uses to be made of such waters.[10] As long as these factors are taken into account, the CWA provides that it is up to the states to establish priorities. States may consider other factors relevant to prioritizing waters for TMDL development, including immediate programmatic needs; vulnerability of particular waters as aquatic habitats; recreational, economic, and aesthetic importance of particular waters; degree of public interest and support; and state or national policies and priorities.[11]

II. Analysis of Minnesota's Submission

A. Minnesota's 2020 303(d) List Submittal

1. MPCA's 2020 List Submittal

MPCA submitted the final draft of its 2020 303(d) Impaired Waters list and attachments to EPA on February 25, 2021. The February 25, 2021 303(d) submittal included the following:

- February 25, 2021, letter from Katrina Kessler, Assistant Commissioner, MPCA, to Tera L. Fong, Water Division Director, EPA Region 5, with the following attachments:
- 1: 2020 Impaired Waters List, February 25, 2021;
- 2: MPCA Guidance Manual for Assessing the Quality of Minnesota Surface Waters for Determination of Impairment: 305(b) Report and 303(d) List 2020 Assessment Cycle (April 2020);
- 3: 2020 Minnesota Water Quality: Surface Water Section, Report to the Congress of the United States Water Years 2018-2019 (Abbreviated Narrative Report (March 2020));
- 4: Public Participation Package;
    - Internal and external calls for data (September – October, 2017 and September – October, 2018);
    - Public notice information (i.e., public meeting announcements, MPCA press releases, attendance sheets from public meetings, etc.);
    - Public comments received during public comment period (November 12, 2019 to January 14, 2020) and MPCA responses to these comments (February 25, 2021);
- 5: Documentation on recategorization decision making (e.g., Category 4C and 4D waters);

[9] 40 C.F.R. § 130.7(b)(6).
[10] CWA Section 303(d)(1)(A).
[11] Surface Water Toxics Control Program and Water Quality Planning and Management Program, 57 *Fed. Reg*. 33040, 33045 (July 24, 1992); *see also* EPA's 1991 Guidance.

- 6: MPCA response to EPA comments on the draft 2020 303(d) List and Guidance Manual; and
- 7: Appendix B of the Statewide Mercury TMDL (January 2020).

EPA submitted comments to MPCA on March 9, 2021, requesting that MPCA clarify whether it considered eight waters, identified in public comment, as waters used for the production of wild rice and further explanation of how MPCA evaluated data for those eight waters. MPCA responded to these inquiries in a letter to EPA on March 15, 2021.

EPA's review of Minnesota's 2020 submittal involved reviewing those factors set forth at 40 C.F.R. § 130.7(b)(6), including a methodology, a description of the data and information used to identify waters pursuant to the factors set out in 40 C.F.R. § 130.7(b)(5), a rationale for relying on particular readily available data, and the additional information requested and reviewed by EPA.[12] On the basis of our review, EPA partially approves and partially disapproves Minnesota's 2020 303(d) list.

EPA's partial approval of the Minnesota 2020 303(d) list encompasses those water bodies identified in Appendix 1 of this Decision Document, except for waters within Indian Country. EPA is taking no action to approve or disapprove the State's list with respect to those waters that are within Indian Country. EPA or eligible Indian Tribes, as appropriate, will retain responsibilities under Section 303(d) for those waters.

2. Integrating the CWA 305(b) Report and CWA 303(d) List

Since the 2002 assessment cycle, EPA has encouraged states to integrate their 303(d) lists and their 305(b) reports into one submittal, called the Integrated Report.[13] Minnesota follows this practice. EPA has recommended five beneficial use attainment reporting categories to represent levels of use attainment.[14] Minnesota uses these five categories with additional subcategories. These are described in Table 1, of this Decision Document.[15]

Table 1: MPCA's Beneficial Use Attainment Reporting Categories

Integrated Report Category	Description
2	Water body's assessed designated uses are fully supported, the designated use is fully supported, or parameter meets standards.
3	Data insufficient or inconclusive to assess.
4A	Impaired and a TMDL study has been approved by EPA.
4B	Impaired but a TMDL study is not required because water quality standards are expected to be met in the near future.
4C	Impaired but a TMDL study is not required because the impairment is not caused by a pollutant.
4D	Impaired but a TMDL study is not required because the impairment is due to natural conditions with insignificant anthropogenic influence. To be considered insignificant, the elimination of the anthropogenic influence would not lead to the attainment of water quality standards and it would not be included in formal

[12] Section 303(d) lists must include all WQLSs still needing TMDLs, regardless whether the source of the impairment is a point source, nonpoint source, or both. EPA's long-standing interpretation is that Section 303(d) applies to waters impacted by point sources and/or nonpoint sources. In *Pronsolino v. Nastri*, the Ninth Circuit Court of Appeals held that Section 303(d) of the CWA authorizes EPA to identify and establish TMDLs for waters impaired by nonpoint sources, 291 F.3d 1123 (9th Cir. 2002). *See also* EPA's 1991 Guidance.
[13] U.S. EPA, Office of Water, *Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the Clean Water Act*, July 29, 2005 (hereafter, EPA's 2006 Guidance).
[14] EPA's 2006 Guidance, pp. 6-7.
[15] 2020 Methodology, Appendix A, p. 55.

	pollution reduction goal-setting activities. Category 4D indicates a site-specific water quality standard based on local natural conditions has yet to be determined.
4E	Impaired but existing data strongly suggests a TMDL study is not required because impairment is not caused by a pollutant or is due to natural conditions with only insignificant anthropogenic influence; a final determination of Category 4C or 4D will be made in the next assessment cycle pending confirmation from additional information.
5	Impaired and a TMDL study has not been approved by EPA.

Minnesota's 2020 Methodology explains the State's process for development of its Integrated Report (MPCA refers to its Methodology as its "Guidance Manual"[16]). For assessing streams, MPCA uses a stream assessment unit which usually extends from one significant tributary to another or from the headwaters to the first significant tributary and is typically less than 20 miles in length.[17] Minnesota uses hydrologic unit boundaries of the 10 digit HUC as the initial assessment unit for mainstem segments of large rivers. River assessment units are generally shorter than 20 miles in length and may be further divided into two or more assessment reaches when there is a change in use classification or where there is a significant morphological feature (e.g., dam or lake within the river).[18] Minnesota uses the United States Geological Survey (USGS) eight-digit hydrologic unit code (HUC) (e.g., 07020012) plus a three-digit reach code (e.g., 505) to name river assessment units (e.g., 07020012-505).

MPCA relies on the *Protected Waters Inventory*, which is assembled by the Minnesota Department of Natural Resources (MDNR), to provide identification codes for lakes and wetlands. MDNR uses a unique eight-digit identification number to identify lakes and wetlands (Lake/Wetland ID#). The eight-digit number consists of a two-digit prefix, which represents the county, followed by a four-digit number, which identifies the lake or wetland, followed by a two-digit suffix which represents either the whole lake (as "-00") or represents a specific bay of the lake (e.g., -01, -02, etc.).[19] Throughout the remainder of this Decision Document the term "assessment unit" refers to any river segment identified with a river assessment unit identification number (ID#) or a lake segment identified with a Lake/Wetland ID#.

Once an assessment has been completed, MPCA places the water body into one of the five categories described in Table 1 above. Waters within categories 4 and 5 represent the inventory of impaired waters. Category 5 waters represent those waters requiring TMDLs, i.e., Minnesota's 303(d) list. EPA is approving the waters identified in Appendix 1 of this Decision Document as part of Minnesota's 2020 303(d) list.

B. Review of Minnesota's Consideration of Existing and Readily Available Water Quality-Related Data and Information

1. State Monitoring Data and Information

Minnesota conducts annual surface water monitoring to determine the chemical, biological, bacteriological, and physical conditions of surface waters. The data are used to assess potential and actual threats to water quality and to evaluate the effectiveness of management strategies to address such

[16] 2020 Methodology.
[17] 2020 Methodology, p. 9.
[18] 2020 Methodology, p. 9.
[19] 2020 Methodology, p. 9.

threats and impairments. MPCA also considers water quality data collected by local, state, and federal partners, along with citizen and remote sensing monitoring.

MPCA's data collection and assessment process target specific HUC-8 watersheds on a biennial basis via the State's "Intensive Watershed Monitoring Approach" (IWMA). The IWMA cycle begins with a two-year intensive watershed monitoring program in which the MPCA collects data on water conditions throughout each targeted HUC-8 for that particular listing cycle (Table 2 of this Decision Document).[20] Through the IWMA, MPCA collects water chemistry and biological data, and takes note of general physical characteristics of the HUC-8 landscape (e.g., land use, topography, soil composition, and potential pollution sources). This information, in addition to data provided by the public and other entities, is compiled in a Stressor Identification Report that MPCA uses to assess water quality in each HUC-8 watershed.

Additionally, MPCA annually collects toxic parameter (e.g., mercury) ambient water quality data on a statewide basis. MPCA assessed annual toxic ambient water quality data collected in 2018-2019 for its 2020 listing cycle. MPCA also solicited water quality data on large river segments from the general public for the 2020 listing cycle. MPCA defines large rivers as large mainstem rivers that flow through multiple major watersheds and that may not be satisfactorily represented, in terms of water quality sample collection, in MPCA's IWMA.[21]

Table 2: Watersheds in which water quality data was assessed for the 2020 listing cycle

Watershed Name	Year in which data were collected under the Intensive Watershed Monitoring Approach (IWMA)
Kettle River	2018
Mississippi River - Brainerd	2018
Mississippi River - Sartell	2018
Otter Tail River	2018
Upper St. Croix River	2018
Rainy River	2018
Blue Earth River	2019
Cottonwood River	2019
North Fork Crow River	2019
Pomme de Terre River	2019
Lower Rainy River	2019
Rainy River - Rainy Lake	2019
Rapid River	2019
Roseau River	2019
Redwood River	2019
Snake River	2019
Additional large river monitoring completed during the 2020 listing cycle	
Rainy River	2018
St. Croix River	2019

[20] MPCA Watershed Monitoring Approach (Intensive Watershed Monitoring Map), https://www.pca.state.mn.us/water/watershed-approach-restoring-and-protecting-water-quality (last visited 3/23/21).
[21] 2020 Methodology, p. 3.

2. Active Solicitation of Data from Other Sources

In order to assess water bodies for the 303(d) list, MPCA relies on data it collects via its IWMA and data from other credible outside sources. MPCA publishes annual "Calls for Water Quality Data" through the State's "*GovDelivery*" electronic mail distribution system and through its website. In the *Call for Water Quality Monitoring Data* email communications, MPCA outlines expectations for meeting data quality and submittal deadlines.

In 2003, MPCA issued the *Volunteer Surface Water Monitoring Guide*. This guidance discusses data uses and goals of data collection, data quality issues, and includes a specific section on monitoring requirements for data that can be used in 305(b) and 303(d) assessments.[22] This guidance and other MPCA notifications contain the necessary parameters for MPCA's acceptance of outside data. In its review of all existing and readily available water quality data, MPCA staff considered data submitted within the timeframes described in MPCA's Calls for Water Quality Monitoring Data and which meet its data quality assurance and quality control (QA/QC) protocols. Monitoring and data management at MPCA are in accordance with the requirements specified in the Quality Management Plan (December 2017) approved by the EPA and available for review via MPCA's website.[23]

2020 listing cycle:

MPCA sent emails to members of the public who are signed up on the Agency's listservs on October 25, 2017 and October 26, 2017[24] and October 4, 2018[25] requesting the public to share all available water quality data for the watersheds and large river segments in Table 2 of this Decision Document. These email solicitations were part of MPCA's effort to gather all readily available water quality data and information to assess water quality for the 2020 listing cycle.

MPCA stores all data used for its assessment in its central depository for water quality data known as the *Environmental Quality Information System* (EQuIS). Data collected by parties other than MPCA are added to EQuIS for individual water bodies if the data meet the State's QA/QC guidelines.[26]

C. Review of Minnesota's Rationale to List or Not List WQLSs on the 2020 303(d) List

1. Methodology Used to Assess Waters and Develop the 303(d) List

EPA's regulations at 40 C.F.R. § 130.7(b)(6) require that states provide documentation to support their decisions whether to list waters including a description of the methodology used to develop the list. Beginning in 2002, MPCA developed an assessment methodology and has modified it with each listing cycle. Minnesota's February 25, 2021, submittal to EPA included MPCA's 2020 Methodology.

MPCA's 2020 Methodology defines data and information requirements for assessing and determining whether a water is meeting its designated beneficial use(s). The 2020 Methodology also establishes

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[22] Appendix D of the *Volunteer Surface Water Monitoring Guide* provides specific requirements for MPCA integrated assessments (revised September 2009), https://www.pca.state.mn.us/sites/default/files/wq-s1-15n.pdf (last visited 3/23/21).
[23] MPCA Water Quality Management Plan (December 2017), https://www.pca.state.mn.us/sites/default/files/p-eao2-15.pdf (last visited 3/23/21).
[24] MPCA emails, 10/26/17 and 10/27/27, Subject: *Do you have water quality data to share?*, pp. 1-2.
[25] MPCA email, 10/4/18, Subject: *MPCA seeking water quality data for lake and stream assessments,* pp. 1-5.
[26] MPCA webpage, http://www.pca.state.mn.us/index.php/water/water-monitoring-and-reporting/surface-water-data/environmental-quality-information-system-equis.html (last visited 3/23/21).

thresholds for various categories of pollutants. Detection of pollutants over these thresholds suggests impaired conditions.

Minnesota rules identify seven beneficial uses for which surface waters in Minnesota are protected (Table 3 of this Decision Document).

Table 3: Minnesota Beneficial Use Classifications

Class of Water	***Designation***
Class 1	Drinking water
Class 2	Aquatic life and recreation
Class 2A	*Cold water fisheries, trout waters*
Class 2B	*Cool and warm water fisheries (not protected for drinking water use)*
Class 2Bd	*Cool and warm water fisheries (protected for drinking water use)*
Class 2C	*Indigenous fish and associated aquatic community*
Class 2D	*Wetlands*
Class 3	Industrial use and cooling
Class 4	Agricultural use
Class 5	Aesthetics and navigation
Class 6	Other uses
Class 7	Limited resource value waters

MPCA Class 1 waters (designated drinking waters) are protected surface waters for water supply purposes. All groundwater in Minnesota is protected as a source of drinking water, but only select surface waters are protected as sources of drinking water.[27] MPCA has acknowledged the trend of increasing nitrate concentrations in Minnesota stream and groundwater samples.[28] Class 1 water bodies have been assessed since the 2010 listing cycle to measure potential exceedances of the nitrate-nitrogen Class 1 drinking water consumption standard.[29]

All surface waters in Minnesota are considered either Class 2 or Class 7 designated waters.[30] Unless classified as Class 7 waters, surface waters in Minnesota are protected for aquatic life and recreation (Class 2 designated water). The State of Minnesota defines protection of aquatic life and recreation as:

> . . . the maintenance of healthy, diverse, and successfully reproducing populations of aquatic organisms, including invertebrates as well as fish. Protection of recreation for all surface waters, except wetlands and limited resource value waters means the maintenance of conditions suitable for swimming and other forms of water recreation. Recreation in wetlands means boating and other forms of aquatic recreation for which they may be usable (this does not preclude swimming if that use is suitable).[31]

[27] MPCA Water Quality Standards, https://www.pca.state.mn.us/water/water-quality-standards (last visited 3/23/21).
[28] 2020 Methodology, p. 36.
[29] *Guidance Manual for Assessing the Quality of Minnesota Surface Waters for Determination of Impairment: 305(b) Report and 303(d) List, 2010 Assessment Cycle* (October 2009), pp. 29 and 48.
[30] MPCA Water Quality Standards, https://www.pca.state.mn.us/water/water-quality-standards (last visited3/23/21).
[31] MPCA Water Quality Standards, https://www.pca.state.mn.us/water/water-quality-standards (last visited 3/23/21).

Typically, water quality standards applicable to Class 2 designated waters are the most stringent. Therefore, Minnesota's assessments usually consider water quality standards applicable to Class 2 waters. Beneficial use supports assessed by Minnesota include:

- Aquatic Life (toxicity-based standards, conventional pollutants, biological indicators);
- Drinking Water and Aquatic Consumption (human health-based standards);
- Aquatic Consumption (wildlife-based standards);
- Aquatic Recreation (*Escherichia coli (E. coli)* bacteria, eutrophication); and
- Limited Value Resource Waters (toxicity-based standards, bacteria, conventional pollutants).

Aquatic life use support assessments consider protection of the organisms that reside in the surface waters, while aquatic consumption use support assessments consider protection of the consumers of the aquatic life. Aquatic recreation use support is assessed for the protection of recreation in surface waters.[32]

MPCA Class 7 waters (designated limited resource value waters) are protected to allow secondary body contact use, to preserve groundwater for potable water supply, and to protect aesthetic qualities of the water.[33] Class 7 designated waters are not fully protected for aquatic life. Such waters have a very limited aquatic and fish community populations mostly due to lack of water, lack of habitat, or extensive physical alterations. Both Class 2 and 7 designated waters are also protected for Classes 3, 4, 5, and 6 designations.

2. The Assessment Process

MPCA's data collection and assessment process focus on water quality monitoring efforts within selected HUC-8 watersheds (see Tables 2 and 3 of this Decision Document). The IWMA strategy generates large amounts of data that are initially screened via computer analyses (i.e., Step 1 below) and further analyzed during expert and external partner reviews (i.e., Steps 2 through 5 below). Through this process, MPCA reviews all available water quality monitoring data and information to determine whether the water body meets its beneficial uses (e.g., drinking water, aquatic life, aquatic recreation, aquatic consumption, and limited use waters). MPCA's key steps are described below:[34]

Step 1: Data compilation - Monitor and gather data information

The first step in MPCA's assessment process involves a computerized screening effort which examines the following information for an assessment unit; a comparison of water quality monitoring data collected over the appropriate period of record against the water quality criteria, a summation of the water quality date which exceeds the water quality criteria, and the total number of water quality data points and total number of years where water quality data was collected for that particular assessment unit.

Step 2: Desktop assessment by resource specific MPCA staff

MPCA reviews ambient water quality and biological data to ascertain the overall quality of the dataset for each water body, identified by assessment unit identification numbers (AUIDs, which are the river

[32] 2020 Methodology, p. 5.
[33] Class 7 Limited Resource Value Waters Fact Sheet, http://www.pca.state.mn.us/index.php/view-document.html?gid=7255 (last visited 3/23/21).
[34] 2020 Methodology, pp. 7-8.

assessment unit ID# or the lake/wetland ID#).[35] In this step, MPCA also considers other climatic and hydrochemical evidence (e.g., flow conditions). Based on this review, MPCA determines whether a water body meets the criteria to be added to the 303(d) list.

Step 3: Watershed Assessment Team review of water quality data
MPCA convenes an internal Watershed Assessment Team (WAT) to review the results of the use-support determinations resulting from the first three steps for each HUC-8 watershed under review. This team also considers delistings and natural background candidate water bodies (i.e., those water bodies for which natural conditions cause impairment).

Step 4: Professional Judgment Group review of water quality data
MPCA convenes a Professional Judgment Group (PJG) comprised of the WAT and external parties (e.g., local data collectors, local government units, tribal partners).[36] The PJG reviews water quality data and potential AUIDs for listing or delisting and makes the final use-support determinations.[37] MPCA reports the assessment decisions made by the PJG in *Watershed Monitoring and Assessment Reports* (on the HUC-8 scale) and the *Integrated Report*.[38]

2A. Assessment Based on Narrative and Numeric Water Quality Standards

EPA recognizes that numeric water quality criteria commonly have three elements: magnitude, duration, and frequency of exceedance.[39] Minnesota's 2020 Methodology set forth specific information about how MPCA considered these three elements in developing its 303(d) lists.

In MPCA's review of ambient water quality data for the 2020 listing cycle, MPCA determined whether individual parameters within a specific water body met or exceeded the applicable water quality criteria (numeric or narrative standards). In its final use-support determinations, MPCA also considered additional supporting information, such as timing of exceedances, naturally occurring conditions that may affect pollutant concentrations and toxicity, weather and flow conditions, and changes in the watershed that may have changed water quality.

2B. Assessment Based on Numeric and Narrative Standards for Protection of Aquatic Life

The 2020 Methodology outlines the minimum requirements for ambient water quality data and impairment thresholds for pollutants that have toxicity-based chronic numeric standards. Sections V.A.1 and V.A.2 of the Methodology explain the applicable Class 2 numeric water quality standards, data requirements, and impairment thresholds considered in these toxicity-based numeric standard assessments. In general, for the assessment of pollutants with toxicity-based numeric standards, five data points collected within a 3-year period, within the most recent 10-year period are necessary. MPCA considers two or more exceedances of the chronic standard in 3 years to be an impairment and lists these waters.[40]

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[35] 2020 Methodology, pp. 7-8.
[36] 2020 Methodology, pp. 7-8.
[37] 2020 Methodology, pp. 7-8.
[38] MPCA Surface Water Data – Search for lake and stream information webpage, https://www.pca.state.mn.us/quick-links/eda-surface-water-data (last visited 3/23/21).
[39] EPA's 2006 Guidance, p. 30.
[40] 2020 Methodology, p. 17.

Minnesota also assesses conventional pollutants that have numeric standards and water quality characteristics, which typically include low dissolved oxygen, pH, total suspended solids, temperature, biological indicators and river eutrophication. Sections V.B.1 and V.B.2 of the Methodologies explain the applicable Class 2 numeric water quality standards, data requirements, and impairment thresholds considered in these assessments and also describe characteristics for dissolved oxygen in the applicable Class 7 standard. The State generally requires a minimum of 20 data points collected in the most recent 10-year period from two separate years and will list as impaired those waters where 10 percent of the data points exceed the applicable standard.[41]

2C. Assessment Based on Numeric and Narrative Standards for the Protection of Human Health: Aquatic Consumption and Drinking Water

Assessments based on numeric and narrative standards for protection of human health include consideration of pollutants with Class 2 health-based chronic water quality standards. Minnesota's 2020 Methodology discussed the development of protective numeric chronic standards for human health that are based on water column concentrations of a pollutant that will still be protective for chronic exposure for aquatic organisms, human health, and fish-eating wildlife. If there are multiple parameters that apply to a water body, MPCA chooses the most protective standard to be the applicable chronic standard.[42]

The State's Methodology explains that pollutants with human health based chronic standards that are most often included in its assessments include trace metals, mercury and pesticides.[43] Section VI.A.2.(a) – (c) in Minnesota's 2020 Methodology discusses these pollutants and the applicable Class 2 water quality standards used in MPCA's assessments. In general, MPCA requires two exceedances of the chronic standard or a single exceedance of the maximum standard in 3 years to indicate impairment. To make an assessment, MPCA generally requires five data points within a 3-year period during the most recent 10 years.[44] For some pollutants, toxicity-based and human health-based criteria are very similar (see Minn. R. 7050.0222). For these pollutants, Minnesota considers both criteria.

Minnesota considers human fish consumption as a separate use. In some instances, toxicants may be at levels that are low enough to support aquatic life, but because of bioaccumulation the fish may not be safe for human consumption. MPCA assesses for mercury, PCBs, and perfluorochemicals (e.g., perfluorooctane sulfonate (PFOS)). MPCA assesses fish tissue samples for other bioaccumulative pollutants such as dioxins and furans where it deems these pollutants to be present.[45]

MPCA considers the aquatic consumption use to be supported if it is deemed safe to consume one meal of a specific species of fish per week over a lifetime.[46] Where a water body cannot support fish consumption at this level, MPCA will deem the water to be impaired. Impairment thresholds for PCBs and PFOS are established at the fish tissue concentrations that are considered to be the upper threshold for one meal per week fish consumption advisory level for the "sensitive" population.[47] The impairment threshold for PCBs is based on fish tissue concentrations exceeding 0.22 parts per million (ppm) and

[41] 2020 Methodology, pp. 17-27.
[42] 2020 Methodology, pp. 28-30.
[43] 2020 Methodology, pp. 29-30.
[44] 2020 Methodology, pp. 29-30.
[45] 2020 Methodology, pp. 32-33.
[46] 2020 Methodology, pp. 30-31.
[47] Sensitive population is comprised of pregnant women, women who may become pregnant, and children under age 15. *See* Minnesota Department of Health, Minnesota Fish Consumption Advisory at https://www.health.state.mn.us/communities/environment/fish/ at (last visited 3/23/21) and 2020 Methodology, p. 31.

impairment threshold for PFOS is based on fish tissue concentrations exceeding 0.2 ppm.[48] In 2008, MPCA adopted a mercury fish tissue criterion of 0.2 ppm, which is also the impairment threshold.[49]

In its 2020 assessment for the 303(d) list, MPCA assessed certain waters for Class 1 (i.e., Class 1B and 1C surface waters) drinking water consumption standard of 10 mg/L for nitrate-nitrogen.[50] MPCA's assessment process for drinking water-protected surface water (Class 1B and 1C), is to calculate a 24-hour average nitrate concentration and compare that average value to the 10 mg/L drinking consumption standard.[51] If the water body exhibited two 24-hour exceedances within 3 years, then MPCA deemed the water body to be impaired. Exceedances were assessed over consecutive 3-year periods and the most recent 10 years of water quality data were considered. A minimum of five data points was generally required for assessments, but MPCA may use its discretion to make determinations on the basis of fewer data points.[52]

2D. Assessment Based on Numeric Standards for Protection of Aquatic Consumption: Wildlife-Based Standards

Minnesota has four wildlife-based water quality standards (dichlorodiphenyltrichloroethane (DDT), Mercury, PCBs, and 2,3,7,8 tetrachlorodibenzo-p-dioxin (2,3,7,8 TCDD)) within its Great Lakes Water Quality Initiative (GLI) rule,[53] which apply only to surface waters of the Lake Superior Basin. These wildlife-based water quality standards protect wildlife consumers of aquatic organisms. Data requirements and exceedance thresholds for pollutants with wildlife-based water quality standards are the same as those used by the State in its assessments of pollutants that have human health-based chronic standards.[54]

2E. Assessment Based on Numeric Standards for Protection of Aquatic Recreation

Minnesota has two sets of numeric standards protecting waters for aquatic recreation. Numeric standards established for *E. coli* protect for primary and secondary body contact,[55] while eutrophication standards protect for aquatic recreation in Minnesota lakes.

Minnesota has *E. coli* standards for both Class 2 and Class 7 waters, which are identified in its 2020 Methodology at Table 8.[56] The standards for *E. coli* include both a monthly geometric mean and an individual maximum. Minnesota considers both standards in its assessments. The geometric mean is based on no fewer than five samples collected in a month. Most monitoring programs, however, do not

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[48] 2020 Methodology, p. 31.
[49] 2020 Methodology, p. 31-32.
[50] Minnesota incorporated the federal acute toxicity standard into Minn. R. 7050.022; *see also* 2020 Methodology, p. 36.
[51] 2020 Methodology, p. 36.
[52] 2020 Methodology, p. 36.
[53] Minn. R. 7052.0110, https://www.revisor.mn.gov/rules/7052.0100/ (last visited 3/23/21).
[54] 2020 Methodology, p. 37.
[55] For purposes of bacteriological standards, recreation in or on the water is divided into two types: primary body contact and secondary body contact. Primary body contact is considered to be any type of water recreation during which the accidental ingestion of a small amount of water is likely such as swimming, snorkeling, self-contained underwater breathing apparatus (SCUBA) diving, water skiing, kayaking, tubing, and wading by young children. Secondary body contact is considered to be any type of water recreation during which the accidental ingestion of a small amount of water is unlikely such as boating, canoeing, fishing, and wading by older children and adults. *Statement of Need and Reasonableness, Book III of III, In the Matter of Proposed Revisions of Minnesota Administrative Rules Chapter 7050, Relating to the Classification and Standards for Waters of the State, July 2007, pg. 83*, and 2020 Methodology, p. 38.
[56] 2020 Methodology, p. 38.

collect samples more often than once a month. Thus, MPCA aggregates available *E. coli* data for an individual month across the most recent 10 years of data.[57]

For assessment of the monthly geometric mean standard, MPCA considers the most recent 10 years of data, aggregates the data by individual month for a specific assessment unit, and, if one or more months exceed the monthly geometric mean standard,[58] the assessment unit is added to Minnesota's 303(d) list. For assessment of the individual maximum standard, MPCA reviews whether more than 10% of individual values over the most recent 10 years exceed the standard, using a minimum of 15 samples over the most recent 10-year period.[59] Where MPCA lacks sufficient samples, it has discretion to assess on a case-by-case basis.[60]

In the 2020 listing cycle MPCA continued to assess bacteria (*E. coli*) water quality in the waters of Lake Superior.[61] MPCA analyzed water quality data at select locations along Lake Superior's shoreline, tributaries that contribute to Lake Superior, locations in Duluth-Superior Harbor, and portions of the St. Louis River as recreational waters subject to bacteria water quality standard under the Beaches Environmental Assessment and Coastal Health (BEACH) Act and Water Quality Standards for Coastal and Great Lakes Recreation Waters Rule.[62]

Minnesota's promulgated ecoregion-based lake eutrophication numeric water quality standards for total phosphorus, chlorophyll-a (chl-*a*) and Secchi Disk depth (Minn. R. 7050.0222 subp. 2-4) are the parameters monitored in lake assessments. Eutrophication standards are specific to ecoregion and lake depth. Minnesota establishes regulatory depths of a lake, a shallow lake, a reservoir, and a wetland. In categorizing water bodies, MPCA analyzes basin depth and littoral area.[63] Appendix D of the 2020 Methodology explains the State's approach.[64] Table 11 of Minnesota's 2020 Methodology identifies the lake eutrophication standards used for aquatic recreation use assessments.[65]

MPCA considers data collected over the most recent 10-year period in making assessments utilizing the eutrophication water quality standard. MPCA requires that samples be collected over a minimum of 2 years and sampled from June to September. MPCA generally requires at least 8 individual data points for TP, corrected chl-*a* (chl-*a* corrected for pheophytin), and Secchi disk depth.[66] If there are multiple samples collected on the same day, MPCA calculates a daily average. MPCA averages all daily data from June to September to calculate a summer mean value, which is the water quality measurement compared to eco-region and depth-specific water quality standards. MPCA lists as impaired those lakes

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[57] 2020 Methodology, pp. 38-40, *see also Fecal Coliform Bacteria in Rivers*, MPCA, H.D. Markus, 1999. (The Fecal Coliform document can be found in EPA Region 5's 2002 Administrative Record.)
[58] The monthly geometric mean water quality standard for Class 2 waters is 126 organisms per 100 mL of water and for Class 7 waters is 630 organisms per 100 mL of water. *See* 2020 Methodology, pp. 38-40, Minn. R. 7050.0222 subp. 2-5, and Minn. R. 7050.0227 subp. 2.
[59] The *E. coli* maximum individual water quality standard for both Class 2 and 7 waters is 1260 organisms per 100 mL of water. *See* 2020 Methodology pp. 38-40, Minn. R. 7050.0222 subp. 2-5, https://www.revisor.mn.gov/rules/7050.0222/, and Minn. R. 7050.0227 subp. 2, https://www.revisor.mn.gov/rules/7050.0227/ (last visited 3/23/21).
[60] 2020 Methodology, pp. 38-40.
[61] 2020 Methodology, pp. 40-41.
[62] 33 U.S.C. §§ 1313(c), (i); November 2004 *Water Quality Standards for Coastal and Great Lakes Recreation Waters* Rule, 69 Fed. Reg. 67217, November 16, 2004.
[63] 2020 Methodology, 41-43.
[64] 2020 Methodology, p. 58.
[65] 2020 Methodology, p. 44.
[66] 2020 Methodology, pp. 41-43.

where total phosphorus and at least one of the response variables (chl-*a* or Secchi disk depth) exceeds the applicable standard.[67]

2F. Assessment Based on Numeric Standard for Protection of Limited Resource Value Waters

MPCA's Methodology provides that "limited resource value waters (i.e., Class 7 waters) include surface waters of the State that have been subject to a use attainability analysis and have been found to have limited value as a water resource."[68] Minnesota designates these waters for secondary body contact use, to preserve the groundwater for use as a potable water supply, and to protect aesthetic qualities of the segment.[69] MPCA also designates Class 7 waters for game fish spawning and certain other uses and for which the State assesses these waters against criteria for most toxic pollutants.[70]

3. Removing a Water from the 303(d) List

MPCA explained that when it considers whether to remove a water body from the 303(d) list it generally applies the same standards, guidelines, and thresholds used to add a water body segment. Minnesota's 2020 Methodology identified the following reasons for removing a water from the 303(d) list:

- The water body was placed on the list in error (e.g., wrong AUID assigned).[71]
- The water body has an approved TMDL for a specific pollutant (e.g., EPA has approved a TMDL for Rice Lake that addresses Rice Lake's nutrient impairment. In such an instance, the Rice Lake nutrient listing will be removed from the 303(d), as a Category 5 water, and re-categorized as a Category 4A water. The State notes that a water may still appear on the 303(d) list because of other identified impairments.)
- The water body is found to be impaired by natural conditions (i.e., conditions that are non-anthropogenic in origin). In this situation, all sources of the impairment must be naturally occurring. Although Minnesota continues to identify these waters as impaired, it places these waters in Category 4D (i.e., impaired but not requiring a TMDL).
- The water body was re-segmented or reclassified since the last assessment cycle and the updated re-segmentation or reclassification results in the water body being removed from the 303(d) list.
- The standards applicable to the water body or the methodology used to determine impairment were changed or updated since the last assessment cycle.
- Subsequent monitoring or the development of the TMDL study leads to new and reliable water quality data or information that indicates that the water body is found to meet water quality standards.

In evaluating the reasonableness of the State's decision to remove these waters, EPA has considered the State's delisting rationale,[72] information made available to the public during the public notice and

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[67] Minnesota rules include narrative eutrophication standards for Class 2 lakes, shallow lakes, and reservoirs, which describe a polluted condition as an exceedance of total phosphorus and either the chlorophyll-a or Secchi disk standard using data that are averaged over the summer season. *See* Minn. R. 7050.0222 subp. 2a, 3a, and 4a, , https://www.revisor.mn.gov/rules/7050.0222/ (last visited 3/23/21).
[68] 2020 Methodology, p. 44; *see also* Minn. R. 7050.0227 that sets forth water quality standards for Class 7 waters for *E. coli*, dissolved oxygen, pH, and toxic pollutants.
[69] 2020 Methodology, p. 44; *see also* Minn. R. 7050.0470.
[70] 2020 Methodology, p. 44.
[71] 2020 Methodology, pp. 45-49.
[72] See the following tabs within submitted spreadsheets from MPCA for further detailed discussion from the State; *Inventory Impaired Waters*, *Delisted*, and *Changes and Corrections to List*.

comment period, and MPCA lake/wetland and stream assessment documentation,[73] and EPA concludes that the State has provided adequate justification for removing these waters.

D. Review of Minnesota's Priority Ranking

EPA reviewed the State's priority ranking of listed waters for TMDL development for the 2020 303(d) list and concludes that the State took into account the severity of pollution and the beneficial uses of individual water bodies, as well as other relevant factors. MPCA's TMDL prioritization is reflected in the *TMDL Target Completion Year* column, which is included for each individual water body segment on Minnesota's 303(d) list spreadsheet. [74] Included in the TMDL Target Completion Year column are water body segments which MPCA anticipates will have completed TMDLs in the next two years.

Minnesota also submitted a long-term schedule for TMDL development for all waters on the 303(d) list, consistent with EPA's Long-Term Vision for Assessment, Restoration and Protection under the CWA Section 303(d) Program.[75] As a policy matter, EPA has requested that states provide such schedules. However, EPA is not taking any action to approve or disapprove the State's long-term schedule.

EPA agrees that, as to the WQLSs included on the 2020 303(d) list, MPCA has satisfied the requirement to submit a priority ranking consistent with EPA's regulations.

E. Public Participation

In developing CWA 303(d) lists, states are required to assemble and evaluate all existing and readily available water quality-related data and information, including consideration of existing and readily available data and information about waters for which water quality problems have been reported by members of the public.[76] Pursuant to 40 C.F.R. § 130.7(a), states are required to have procedures in place for involving the public in the development of the Section 303(d) lists. EPA expects that states will, consistent with those procedures, engage the public during the development of the 303(d) list prior to submitting the final list to EPA for review including preparing responses that address the comments received.[77]

1. Public Comment Period for the 2020 303(d) list (November 12, 2019 to January 14, 2020)

Minnesota provided the public with the opportunity to review and comment on the assessment decisions of the 2020 Methodology and draft 2020 303(d) list during a formal comment period from November 12, 2019 to January 14, 2020. MPCA also encouraged public comments during public informational meetings held at various locations throughout the State in December 2019. Notice of these meetings and communication related to the formal comment period was made to the general public through news releases and electronic mail communications in November-December 2019, as well as through information on MPCA's website.

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[73] MPCA Impaired Water's List webpage, https://www.pca.state.mn.us/water/minnesotas-impaired-waters-list (last visited 3/23/21).
[74] 2020 Methodology, p. 56.
[75] MPCA, *Prioritization Plan for Minnesota 303(d) Listings to Total Maximum Daily Loads*, September 2015, https://www.pca.state.mn.us/sites/default/files/wq-iw1-54.pdf (last visited 3/23/21).
[76] 40 C.F.R. § 130.7.
[77] *Supplemental Guidance on Section 303(d) Implementation*, EPA Memorandum, August 13, 1992, *Approval of 303(d) Lists, Promulgation Schedules/Procedures, Public Participation*, EPA Memorandum, October 30, 1992, and *Guidance for 1994 Section 303(d) Lists,* EPA Memorandum, November 26, 1993. [The 1994 Guidance also discusses this.]

2. Public Comments on Specific Water Bodies for the 2020 303(d) list

MPCA received eighteen (18) comments during the comment period. MPCA responded to these comments and posted its responses to commenters on its 303(d) webpage. MPCA included all public comments and its responses to those comments in its February 25, 2021 submittal. In some cases, MPCA added or removed waters; in other instances, MPCA declined to add or remove waters, based on the available information. Waters that MPCA added or removed based on public comments received are summarized in Table 4 of this Decision Document.

Table 4: Waters added and/or removed by MPCA from the final 2020 303(d) list in response to public comments

Public Commenter[1]	MPCA Action	Water Body Name	AUID	Pollutant
Commenter #14	Removed segment from final 2020 303(d) List	South Center	13-0027-00	nutrients
		North Center	13-0032-01	nutrients

1 = Commenter numbers were assigned to individual commenters by MPCA

MPCA received multiple comments regarding the continued absence of a sulfate/wild rice assessment methodology and Minnesota's failure to assess or list potential sulfate-impaired surface water body segments. The comments submitted during the public comment period cited eight waters as examples of waters used for the production of wild rice and for which readily available data indicated potential impairment for the 10 mg/L sulfate criterion. In response to these comments, MPCA stated that it considered data and analysis and determined that seven of the eight waters proposed for listing demonstrated sulfate concentrations above 10 mg/L but that Minnesota would not list those waters because Minnesota law bars MPCA from assessing or listing waters against Minnesota's federally-approved 10 mg/L standard.[78]

EPA reviewed information MPCA made available to the public for review and comment, comments received by the State during the public comment period, and MPCA's responses. With the exception of comments submitted regarding MPCA's efforts to assess wild rice production waters against its current sulfate criterion, EPA concludes that MPCA adequately considered these comments along with other data and information it reviewed to compile the 2020 303(d) list.

3. EPA Tribal Consultation for the 2020 303(d) list

Pursuant to Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* and with the *EPA Policy on Consultation and Coordination with Indian Tribes (May 2011)*,[79] EPA invited tribal consultation on its review of the 2020 Minnesota 303(d) list.[80] The Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe, Minnesota Chippewa Tribe, Prairie Island Indian Community, Shakopee Mdewakanton Sioux Community and White Earth Nation requested consultation with EPA. EPA hosted a tribal consultation conference call on March 12, 2021.

[78] MPCA, Responses to the 2020 Draft Impaired Waters List, Public Notice Comments (February 25, 2021), p. 2 of 12 [responses to public comments 5, 6, 8, 10, 11, 13, 15, and 19]; Letter from Tera L. Fong, EPA, to Katrina Kessler, MPCA, March 9, 2021; Letter from Katrina Kessler, MPCA, to Tera L. Fong, March 15, 2021.
[79] *EPA Policy on Consultation and Coordination with Indian Tribes*, May 4, 2011. https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf (last visited 3/23/21).
[80] EPA letter to tribal leaders, February 25, 2021.

EPA will discuss how it considered the Tribes' comments in a written response concluding the consultation and that EPA will provide in a separate document to be published within thirty days of today's decision, as further discussed in Section II.F.

EPA notes that during the March 12, 2021 consultation, Tribal representatives expressed concern that MPCA continues to list impaired waters in Indian country. As stated in our preamble to this Decision Document, EPA is taking no action to approve or disapprove Minnesota's list with respect to those waters that are within Indian Country. EPA's longstanding position is that absent a specific authorization, states do not have the authority to implement federal environmental programs in Indian country and EPA's review of state 303(d) list excludes waters that are located in Indian country. EPA, or an eligible Indian Tribe, as appropriate, has authority under Section 303(d) with regard to such waters. EPA's approval of Minnesota's 2020 303(d) list does not extend to any waters in Indian country. EPA takes no position regarding whether the State can carry out activities in Indian country under its own state authorities outside the scope of the federal CWA.

F. Partial Disapproval of Sulfate Waters And Further Analyses

EPA disapproves the State's decision not to identify on the list certain WQLSs for sulfate impairment because the existing and readily available data and information for those WQLSs indicate impairments for the numeric water quality criterion for sulfate.[81] The State's decision to exclude these waters is inconsistent with CWA Section 303(d) and EPA's implementing regulations. EPA will identify for inclusion on the list those WQLSs still requiring TMDLs under Section 303(d) of the CWA and the implementing regulations pursuant to 40 C.F.R. § 130.7. Consistent with Section 303(d)(2), the details of EPA's disapproval decision, particularly the identification of specific waters for inclusion on the list based on the review of Minnesota's compliance with the statutory and regulatory requirements and other relevant information submitted to the State, will be provided in a separate document to be published within thirty days of today's decision. Pursuant to 40 C.F.R. § 130.7(d)(2), EPA will issue a public notice providing for a 30-day public comment period regarding the addition of sulfate-impaired waters to Minnesota's CWA Section 303(d) List. After considering any comments received, EPA may make revisions, as appropriate, and will transmit its listings to Minnesota.

[81] MPCA, Responses to the 2020 Draft Impaired Waters List, Public Notice Comments (February 25, 2021), p. 2 of 12 [responses to public comments 5, 6, 8, 10, 11, 13, 15, and 19]; Letter from Tera L. Fong, EPA, to Katrina Kessler, MPCA, March 9, 2021; Letter from Katrina Kessler, MPCA, to Tera L. Fong, March 15, 2021.

Appendices

Appendix 1: Approved 2020 303(d) list of Impaired Waters needing TMDLs