

# Minnesota Nondegradation Rulemaking Update

SWiMS  
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## Why revise the rule?

- Current rule is dated: last revision 1988
- Current rule is point source-orientated
- Legal challenge - 2003 Minnesota Court of Appeals'
- Improve procedures for how waters are protected

## History

- 1968 – Nondegradation policy adopted
- 1984 - MN water quality standards include nondegradation for ORVWs (Minn. R. 7050.0180)
- 1988 - MN water quality standards include nondegradation for all waters (Minn. R. 7050.0185)
  - Incorporated nonpoint source language into nondegradation policy
  - Defined “significant” discharges for new and expanding dischargers. Under a baseline date of Jan. 1, 1988, significant thresholds assessed to trigger a nondegradation analysis

## History (continued)

- 1998 – Lake Superior Basin Water Quality Standards (Minn. R. 7052) were adopted, nondegradation policy addresses bioaccumulative chemicals of concern (BCCs)
- 2003 – Minnesota Court of Appeals’ decision to address nondegradation in MS4 stormwater NPDES general permits
- 2007 – Stormwater Nondegradation Analysis Project conducted by Tetra Tech, MCEA petition for rulemaking, MPCA initiates rulemaking

## Stakeholder Process

- Begun June 2008
- Strong public interest in this rule
- Wide potential impact of revised rule
- Balance between being inclusive and having focused, meaningful discussion
- Use of Issue Papers to frame discussions
- Finishing in March '09
- Opportunities for individual meetings

## Hot Issues

- Applicability of nondegradation
- Protection of high-quality waters
  - Triggers , Public participation, Alternatives , Economic and social impacts
- Review of how baseline conditions are established
- Cumulative impacts

## Hot Issues (continued)

- Stormwater Discharges
  - Multiple discharges to multiple receiving waters
  - Assessment of receiving waters and stormwater impacts
  - Jurisdictional boundaries  $\neq$  hydrologic boundaries
  - How should flow be addressed
  - General permits
  - ORVWs

## Criteria for a good rule

- Workable implementation procedures that follow policies
- Balance between economic, social and environmental needs
- Pragmatic approach concerning resources needed to implement the rule
- Flexibility – not impede current and future Agency practices (i.e., TMDLs, trading, TALU, etc.)
- Legally-defensible policies that meet federal regulations

## Questions?

- Nondegradation Rulemaking Web Page:
  - <http://www.pca.state.mn.us/water/nondegradation-rule.html>
- Bill Cole: 651-757-2281