



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:  
**WW-16J**

Mr. Bill Cole, Supervisor  
Water Quality Standards Unit  
Minnesota Pollution Control Agency  
520 Lafayette Road  
Saint Paul, Minnesota 55155-4914

Dear Mr. Cole:

On June 20, 2023, the Minnesota Pollution Control Agency (MPCA) published a notice on its website requesting comment on the State's proposed *Framework for Developing and Evaluating Site-Specific Sulfate Standards for the Protection of Wild Rice*.

The United States Environmental Protection Agency reviewed the policy plan and EPA's comments are enclosed. EPA's comments are limited to suggestions for MPCA to consider as it considers potential site-specific sulfate criteria. All site-specific criteria that may be adopted by Minnesota based on implementation of this or any other method must be submitted to EPA and are subject to review and approval by EPA pursuant to Section 303(c) of the Clean Water Act. EPA will review each such site-specific criterion submittal for compliance with requirements of the Clean Water Act and federal regulations and either approve or disapprove based on the case-specific facts supporting each submittal. The enclosed comments provide EPA's input on the proposed framework and do not constitute a final EPA action on any site-specific criterion that may be adopted subsequently by Minnesota.

If you have any questions regarding the enclosed comments, please contact me or have your staff contact Aaron Johnson of my staff at (312) 886-6845 or [johnson.aaronk@epa.gov](mailto:johnson.aaronk@epa.gov).

Sincerely,

8/31/2023

**X** David Pfeifer

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David Pfeifer, Manager  
Watersheds and Wetlands Branch  
Signed by: DAVID PFEIFER

Enclosure

## **Enclosure – EPA Region 5 Comments on Minnesota’s Proposed *Framework for Developing and Evaluating Site-Specific Sulfate Standards for the Protection of Wild Rice***

**Comment 1.** On page 1 of the framework, Minnesota Pollution Control Agency (MPCA) states that “it may be appropriate to consider a site-specific modification to the statewide or ecoregional water quality standard” where “a numeric water quality standard is more stringent than is strictly necessary to protect the beneficial use” and where “it may not be sufficiently stringent to ensure protection.” As required by 40 CFR §§ 131.6(c) and 131.11(a), states must adopt water quality criteria that protect the designated use. If a numeric water quality standard is not sufficiently stringent to ensure protection in a given water body, then a site-specific modification must be adopted.

**Comment 2.** Page 3 of the framework states that MPCA will require “a demonstration that the waterbody has and will maintain a ‘wild rice population that is self-sustaining and productive’” to ensure the wild rice designated use will be protected by a proposed site-specific criterion. This language implies that MPCA would not approve a site-specific criterion for a water body where the wild rice is currently impacted, even if the request includes data suggesting that wild rice can tolerate sulfate at concentrations greater than 10 mg/L. If that is MPCA’s intent, EPA recommends that MPCA say so in the framework document. States are not obligated to adopt less stringent site-specific criteria, so denying such requests would be within Minnesota’s discretion. However, it is possible that such a request could be submitted to MPCA and, thus, if MPCA would consider such a request, EPA recommends that MPCA establish what would be required for such a request.

**Comment 3.** Page 5 of the framework lists some of the supporting evidence that an applicant may provide as part of a weight-of-evidence approach to demonstrate that the proposed site-specific criterion will support a productive and self-sustaining wild rice population within the specific water body. This list includes “ambient sulfate concentrations in regional waterbodies that contain healthy wild rice, with special attention given to nearby waterbodies (and waterbodies with analogous environmental characteristics) that are known to contain wild rice and that are unimpacted by sulfur-containing discharges to local surface water or groundwater.” What constitutes a “regional” waterbody or a “waterbody with analogous environmental characteristics” may be a difficult question to assess. EPA recommends that MPCA consider how it would evaluate whether a water body is comparable to the water body at issue and make its expectations clear to potential requestors of site-specific criteria.

**Comment 4.** In the Mississippi River example discussed on page 11 of the framework, MPCA discusses how other factors, such as hydrology, may affect wild rice health and should be considered when evaluating how sulfate concentrations impact a population of wild rice. However, the document does not discuss how those other factors will be evaluated or considered. If MPCA plans to consider stressors other than sulfate when evaluating site-specific criterion requests, EPA recommends that MPCA clarify how it will consider those other factors in this document.

**Comment 5.** On page 13 of the framework, MPCA uses the Mississippi River at Winona example to discuss how regional background sulfate concentrations in a watershed may be

considered to determine whether wild rice in specific waterbodies have adapted to levels of sulfate. The data presented, however, pertain to non-point source loading, which may not be the same as background loading. In this section, MPCA should clarify if the term “non-point source loading” means all loading not attributable to point sources, or if it refers only to anthropogenic non-point sources. To the extent that anthropogenic non-point source loading of sulfate is occurring, MPCA should consider or evaluate what the sulfate loading and/or concentrations would be without those anthropogenic sources. If a requestor submitted documentation that an anthropogenic source has been in existence for a long period of time (e.g., decades) and the survey data indicate that wild rice growth has not been affected, MPCA should clarify if it would consider that information.