

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 2513

03/14/2019 Authored by Schomacker The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy

1.1 A bill for an act
1.2 relating to environment; requiring commissioner of Pollution Control Agency to
1.3 engage in rulemaking and to take certain actions with respect to class 3 and 4
1.4 waters.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. RULEMAKING REQUIRED; REPEALING OR AMENDING CLASS 3
1.7 AND 4 WATER QUALITY STANDARDS.

1.8 Subdivision 1. Rulemaking required. By July 1, 2020, the commissioner of the Pollution
1.9 Control Agency must complete rulemaking to amend or repeal the class 3 and class 4 water
1.10 quality standards in Minnesota Rules, parts 7050.0223 and 7050.0224, subparts 2 to 4.

1.11 Subd. 2. Limited scope of rulemaking. The rulemaking required by subdivision 1 must
1.12 be limited in scope to amending the water quality standards for agricultural, industrial, and
1.13 wildlife beneficial use classifications and must not address the class 4 water quality standards
1.14 related to identifying waters used for producing wild rice or the existing sulfate standard
1.15 for protecting wild rice in Minnesota Rules, part 7050.0223, subparts 1 and 2.

1.16 Subd. 3. Actions required before completing rulemaking. Until the commissioner
1.17 completes the rulemaking required by subdivision 1, the commissioner is subject to the
1.18 following requirements and limitations with respect to implementing the class 3 and class
1.19 4 water quality standards in Minnesota Rules, parts 7050.0223 and 7050.0224, subparts 2
1.20 to 4, unless additional conditions are requested by a permittee:

1.21 (1) when issuing, modifying, or renewing a national pollutant discharge elimination
1.22 system (NPDES) or state disposal system (SDS) permit, the commissioner may require

2.1 pollutant minimization plans but must not require permittees to expend money to design or
2.2 implement any treatment technologies or other forms of mitigation;

2.3 (2) notwithstanding Minnesota Rules, part 7053.0205, the commissioner must not use
2.4 the seven-day ten-year low flow when assessing the need to include or modify a
2.5 water-quality-based effluent limit in permits or when calculating that limit. Instead, the
2.6 commissioner must identify and use an alternative measure of stream flow that is
2.7 scientifically defensible and protective of the applicable agricultural or industrial use given
2.8 the latest scientific information on the frequency and duration of exposure that could cause
2.9 impairment of the applicable uses;

2.10 (3) when assessing the need to include or modify water-quality-based effluent limits in
2.11 permits or when calculating the limits, the commissioner must use the latest scientific
2.12 information to ensure protection of the specific applicable agricultural, industrial, or wildlife
2.13 use. Notwithstanding any provision of Minnesota Rules, part 7050.0224, to the contrary,
2.14 the specific numeric criteria identified in Minnesota Rules, part 7050.0224, subpart 2, must
2.15 be used only as a guide for protecting agricultural uses, and the commissioner may consider
2.16 information related to soil and crop type; and

2.17 (4) the commissioner must not list additional waters as impaired for class 3 or class 4
2.18 water quality standards under section 303(d) of the federal Clean Water Act, United States
2.19 Code, title 33, section 1313, et seq., until the rulemaking required by subdivision 1 takes
2.20 effect.

2.21 Subd. 4. **Modifying permits.** After the rulemaking required by subdivision 1 takes
2.22 effect, the commissioner must modify or remove water-quality-based effluent limits contained
2.23 in permits that are impacted by the rule change.

2.24 Subd. 5. **Relation to federal law.** The commissioner must implement the requirements
2.25 of this section in a manner that is consistent with federal law and to the fullest extent allowed
2.26 by federal law. Nothing in this section may be construed to conflict with federal law.

2.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.