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2025 SUMMER 25 CONFERENCE

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Legal and Regulatory Update

June 10, 2025

Cooper Silburn & Daniel Marx

Overview

1. 2024-2025 priorities

- . PFAS
- . Nitrogen
- . Sulfate
- . Upcoming Issues & Rulemakings

6. Permitting Issues



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2024-25 priorities

- **PFAS:** source reduction, influent monitoring, and a measured, stepwise approach to future PFAS regulations.
- **Nitrogen:** collaborate to develop voluntary approaches to reduce nitrogen and nitrate
- **Sulfate:** ensure reasonable and science-based implementation of the Wild Rice Sulfate Standard.



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Year in review

- 25-27 Triennial Standards Review
- MPCA Biosolids Strategy
- MPCA Nitrogen Reduction Efforts
- Wild Rice Sulfate SSS
- EPA Draft Biosolids Risk Assessment
- EPA Preliminary Plan 16
- Permit Reviews
- Note: still very few MPCA rulemakings



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MN PFAS Update

- MPCA Biosolids Strategy
- PFAS contamination in municipal wastewater

MPCA's Biosolids Strategy

- MPCA's Strategy Goals: Protect human health and the environment. Preserve land application as a beneficial reuse of biosolids. Identify and reduce PFAS sources entering wastewater.
- Key Dates & Requirements:
 - Final Strategy Published: **January 2025**
 - Implementation Begins: **Fall 2025**
 - Who's Affected: **All municipal facilities that land-apply biosolids.**
- What's Required?
 - Annual biosolids sampling (EPA Draft Method 1633A)
 - Tiered response based on PFOA/PFOS concentrations
 - Notification, source tracking, and potential application restrictions for high PFAS levels



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Sampling, Response Tiers & Communication

- **Sampling Requirements (Starting Fall 2025)**

- One representative biosolids sample per year before land application
- Test for 40 PFAS compounds using draft EPA Method 1633A

Tier	PFOA or PFOS (µg/kg)	Response
Tier 1–3	<125	Continued land application with varying degrees of monitoring or reduction
Tier 4	≥125	Land application prohibited; effluent sampling and source reduction plan required

- **Communication & Compliance**

- Notify MPCA and landowners of test results and any restrictions
- Develop or update PFAS Management Plan (PMP) if high levels detected
- Keep records of actions taken, source control efforts, and results



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Issues

Tier	Amount of PFOA or PFOS measured in biosolids (µg/kg)	WWTF requirement
Tier 4	≥ 125	<p>Biosolids are considered industrially impacted</p> <p>Land application is not allowed, arrange for alternative management of biosolids</p> <p>Immediately notify the MPCA</p> <p>The WWTF must sample its wastewater plant effluent and have it analyzed for PFAS, if not already required</p> <p>Create and implement a PFAS source reduction pollutant management plan (PMP) or expedite efforts of an existing PMP</p> <p>Site specific requirements may be necessary</p>
Tier 3	50 - 124	<p>Notify MPCA, farmer, and landowner</p> <p>Create and implement a PFAS PMP or continue implementing an existing PFAS PMP</p> <p>Reduce rate to 1.5 dry tons per acre or provide an alternative risk mitigation strategy</p> <p>Report the land application rate to MPCA</p>
Tier 2	20 - 49	<p>Notify farmer and landowner</p> <p>Create and implement a PFAS PMP or continue implementing an existing PFAS PMP</p> <p>Report the land application rate to MPCA</p>
Tier 1	≤ 19	No additional requirements



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Authority to Ban Land App.

- No authority under 7041.1100: no PFAS pollutant limits (yet)
 - EPA's PFAS limits incorporated by reference
- MPCA could exercise emergency powers to ban land application:

116.11: ...the agency may by emergency order direct the immediate discontinuance or abatement of the pollution without notice and without a hearing...



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PFAS contamination in municipal wastewater

- Six municipal WWTFs currently required to monitor PFAS through NPDES/SDS permits
- 83 WWTFs that agreed to sample influent
 - MPCA expects to receive PMPs from 78 of the 83
- Individual treatment/destruction remains economically infeasible
 - Regionalization of PFAS treatment/ destruction?



UMN Plant Uptake Study

- LCCMR-funded studies demonstrated that PFAS migrate through soils. Corn stover, soybeans, and rye were tested.
 - Uptake did occur in crops
 - Corn stover seems most susceptible
 - polyDADMAC binds PFAS when added to biosolids before application to soils. Needs further testing
 - Submitted for peer review, preliminary results



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Class 1 WQS

- RFC in 2023 for comments on establishing WQS for PFAS.
- MPCA developing strategy to implement Class 1 WQS for PFAS in NPDES permits
- MPCA expected to have a final policy and guidance available by early 2025, although it remains to be seen.

EPA drinking water standards finalized in 2024. These standards are now being challenged, although the case is on hold while EPA reviews the rule further. Still, MCLs adopted by MPCA by reference.



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Member input



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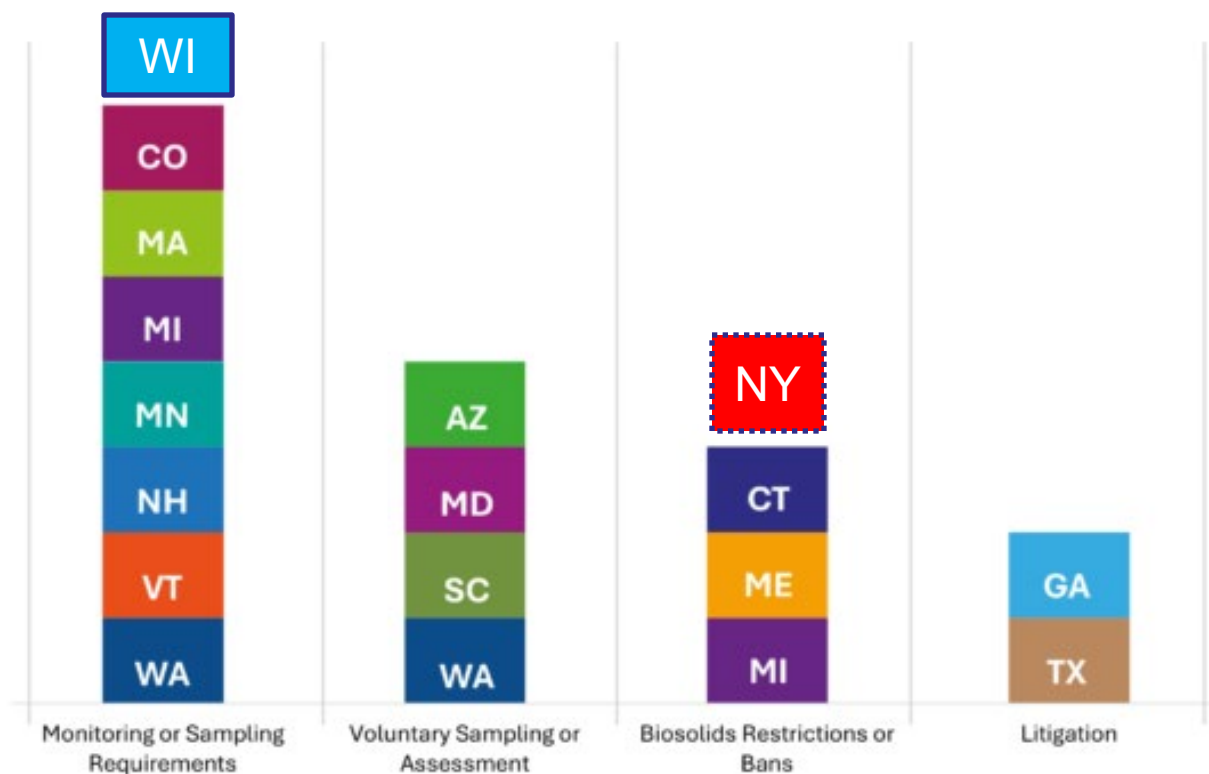
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Federal PFAS Update

- Biosolids Risk Assessment draft published

Activity in the States: PFAS in Wastewater and Biosolids



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EPA Biosolids Risk Assessment

- Draft Results
 - No risk to larger food supply
 - Identified risk to family farmers that consume crops and animal products, and well water from farmland where PFAS contaminated biosolids were applied
- Next steps
 - Public comments
 - Possible rulemaking... ??



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MESERB's Comments

- **Flawed Exposure Assumptions**

EPA's "farm family" exposure scenario is unrealistic and overly conservative, not representative of typical land application conditions.

- **Risk of Premature Regulation**

The Draft could trigger preemptive state restrictions despite lacking finalized federal standards or scientific consensus.

- **Severe Cost Implications for Utilities**

Complying with potential PFAS limits in biosolids could cost Minnesota \$14–\$28 billion over 20 years

- **Limited Biosolids Management Alternatives**

Alternatives to land application (e.g., incineration, landfilling) are constrained by infrastructure, cost, and environmental trade-offs.

- **Alignment with NACWA**

MESERB endorses NACWA's detailed critique, which highlights how the assessment may misrepresent risk and drive disproportionate regulatory burdens.



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Polluter Pays... Progress?

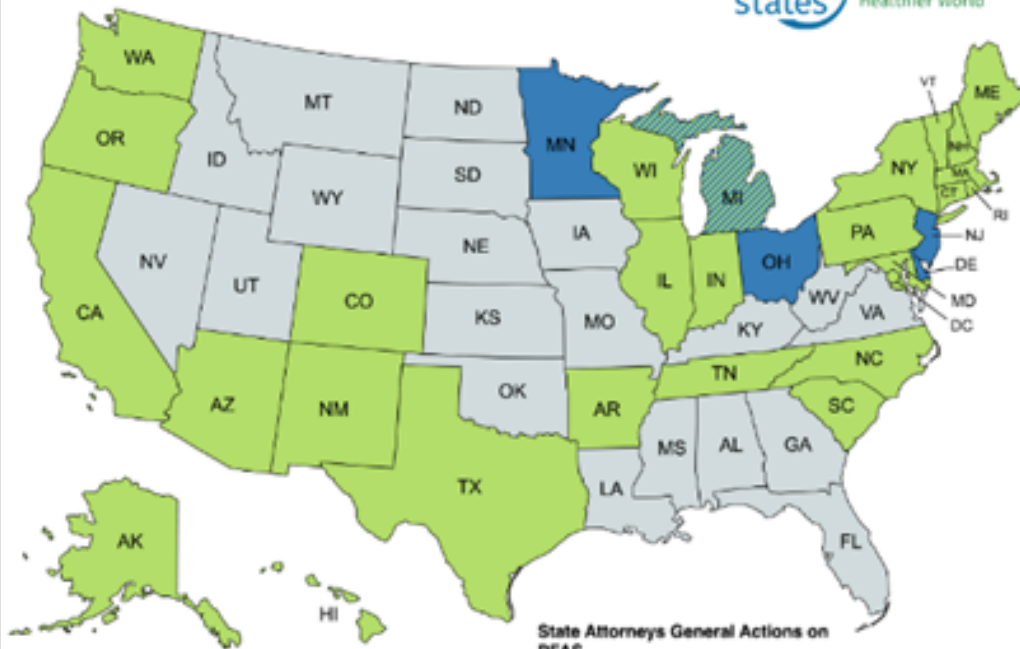
- 2024 Rule designated PFOA/PFOS as CERCLA hazardous
 - A CERCLA enforcement discretion policy provides relief for POTWs
 - EPA not walking back it's hazardous designation
- Increased PFAS Reporting and Tracking under TSCA and TRI
- RCRA Hazardous Waste Evaluation (Ongoing): EPA is assessing how PFAS waste might be regulated



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ation



State Attorneys General Actions on PFAS

- Pursuing litigation
- Settled lawsuit
- Both



* 2025 numbers are year-to-date. Open dots are full-year estimates.



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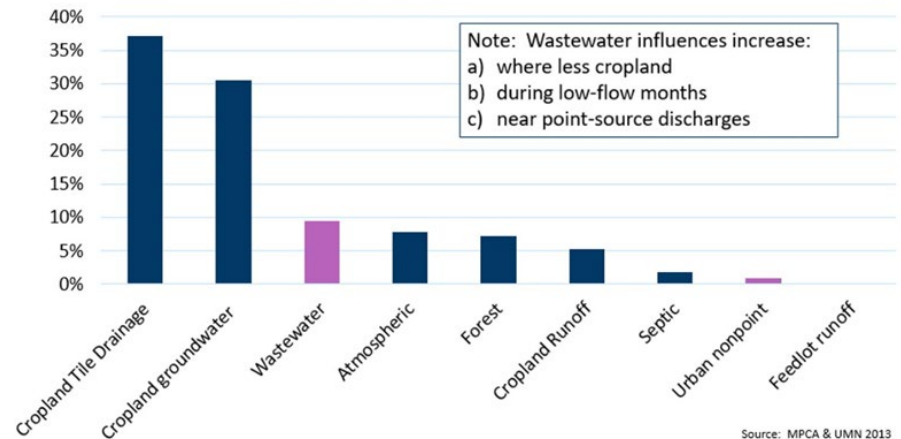
Nitrogen Update

- Wastewater nitrogen reduction and implementation strategy

Wastewater Nitrogen Reduction Strategy Overview

- Objective: Collaborate with NPDES/SDS permittees to:
 - Reduce nitrogen to meet Minnesota's Nutrient Reduction Strategy (NRS) goals.
 - Implement new nitrogen effluent limits aligning with proposed aquatic life nitrate and ammonia standards.
- Implementation Actions:
 - WQBELs for WWTFs
 - 10 mg/L TN effluent limits
 - NMPs for most dischargers

Statewide nitrogen sources to rivers



Source: MPCA & UMN 2013



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Wastewater Nitrogen Reduction Strategy

- **Phase 1** (Began April 2024)
 - Guidance for new/ expanding facilities
 - All other facilities in permit renewal, include design considerations for denitrification
 - MPCA develops nitrogen effluent limits
 - 10 mg/L discharge limit
 - Toxicity-based WQS
 - Implementation steps for high-concentration facilities including NMPs
 - Optimization incentives



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Wastewater Nitrogen Reduction Strategy

- **Phase 2 (Current)**
 - NMPs and permit limits for low concentration facilities
 - Implement adopted rules
 - 10 mg/L discharge limit
 - TN toxicity criteria
- **Phase 3 (second permit cycle following limits)**
 - Limits in permits for those who optimized in phase 1



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General NPDES Language

“A 10 mg/L total nitrogen State Discharge Restriction (SDR) is being proposed for all major municipal WWTFs, high concentration minor municipal WWTFs, and high concentration industrial dischargers in a MPCA nitrate rulemaking effort. To encourage WWTFs to start making achievable nitrogen reductions as soon as possible, the MPCA is proposing in the rulemaking to defer applicability of the SDR limit for one permit cycle for Permittees that have optimized their existing wastewater treatment operations and are able to meet a 15 mg/L total nitrogen based on a 12-month moving average for at least 12 months prior to adoption of a SDR. “

- Watching for implementation of narrative limits...



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MESERB Qs and comments

- How many facilities impacted?
- What are the economic impacts of the proposed Wastewater Strategy?
- MPCA should prioritize developing and implementing nitrate-nitrogen standards to protect health and aquatic life.
- Total nitrogen limits vs nitrate limits?
- Additional studies and evaluation may be needed before adopting nitrate-nitrogen water quality standards.



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Data request

- Need data showing the impacts of implementing strategy at facilities:
 - That discharge upstream of a known IBI impaired water with NO₃-N as a stressor
 - That discharge to waterbodies used as drinking water sources
 - That discharge upstream of proposed draft criteria
 - All major municipal and high-concentration minor facilities



Member Input



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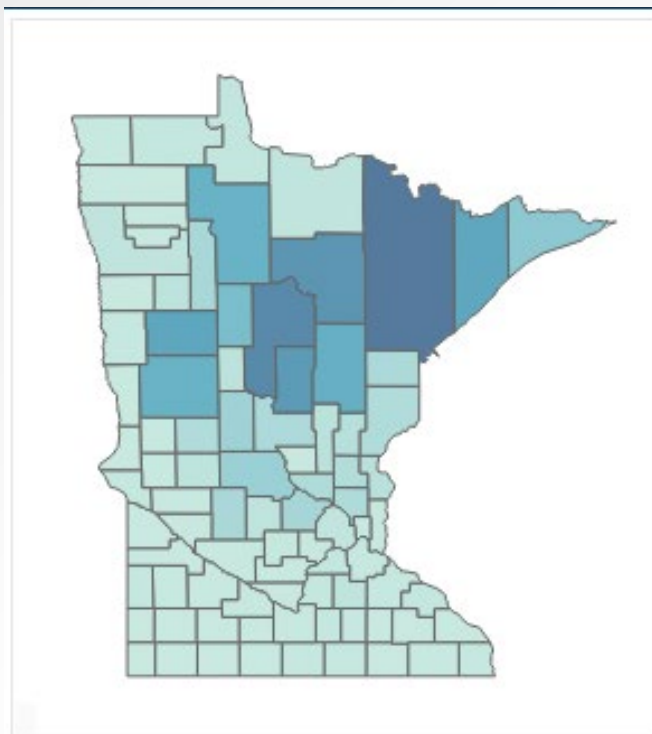


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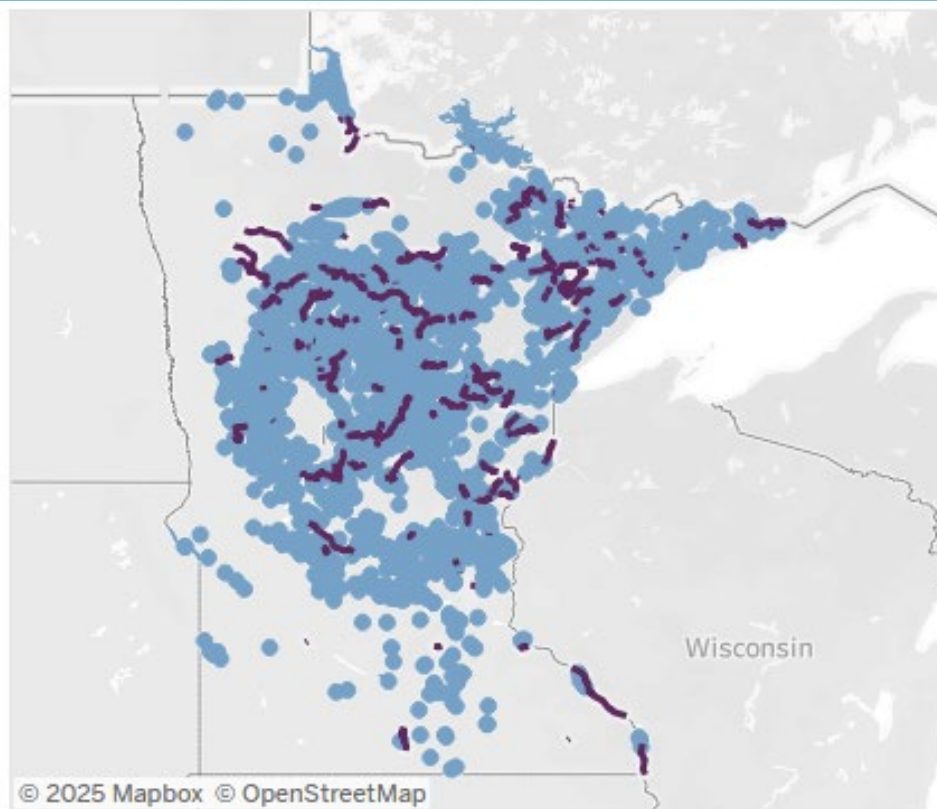
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Wild Rice Sulfate Standard

- Mississippi River Pools SSS development



Wild rice waters per county



Lakes (blue) and rivers (purple) with wild rice



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Data request initial findings

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members who
discharge upstream of
Mississippi River
Pools 3-8 that also
have no intervening
impairments

Glencoe WWTP
Granite Falls WWTP
Hutchinson WWTP
Lafayette WWTP
Lake Crystal WWTP
Le Sueur WWTF
Mankato Water Resource Recovery Facility
Marshall WWTP
Montgomery WWTP
New Prague WWTP
New Ulm WWTP
Olivia WWTP
Red Wing WWTP
Redwood Falls WWTP
Renville WWTP
Rochester WWTP/Water Reclamation Plant
Saint Michael WWTP
Trimont WWTP
Waseca WWTP
Willmar WWTP



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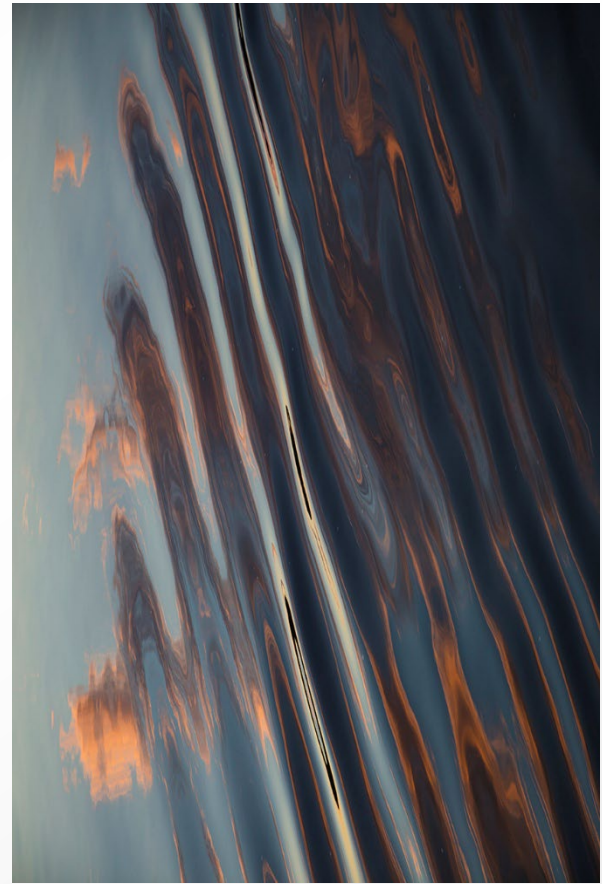
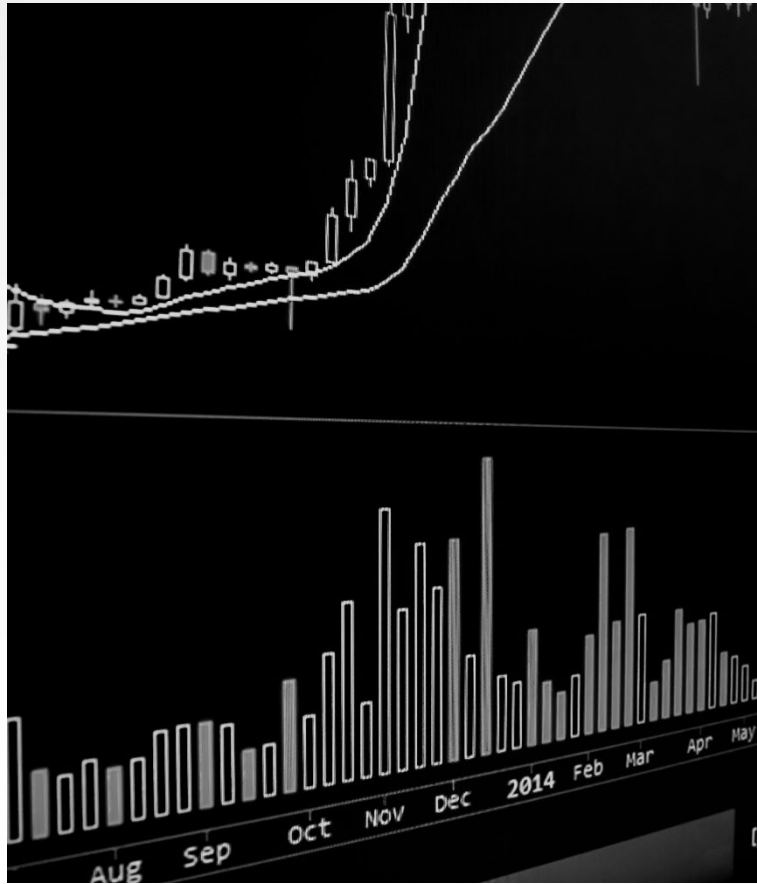
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Solution?

- MDV to be applied to facilities until SSS is developed
- SSS developed and implemented in pools 3-8
- Once SSS is developed, facilities that discharge in Pools 3-8 would receive the SSS instead of the 10 mg/L standard



Should the rule even apply in the Mississippi River?



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Rulemakings



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MPCA Rulemaking Docket

Summary	Status	Timetable/ notes
Use Class 1: inclusion of PFAS criteria	2 nd RFC closed 2023	3 rd RFC TBD
Use Class 2 Ammonia	RFC closed 2022	TBD: Amendments no longer include nitrate standard
Fee Rulemaking (gone but not forgotten)	RFC closed 2022	TBD
Lakes WQS	RFC closed 2023	TBD 2025 comment period and adoption
Animal Feedlots	RFC published March 24, 2025.	The RFC public comment period will remain open until July 22, 2025

Federal Rulemaking Docket

Summary	Status	Timetable/ notes
DRAFT Sewage Sludge Risk Assessment for PFAS	Draft published January 2025	Comments due August 14, 2025
National Primary Drinking Water Regulation	EPA will rescind regulations GenX. Keep standards for PFOA/OS (and extend compliance deadlines)	TBD



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Permitting



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2024 Permitting Efficiency

Water Permits	Tier 1	Priority permits that met goal	99%
		Non-priority permits that met goal	98%
		All permits that met goal	99%
	Tier 2	Priority permits that met goal	69%
		Non-priority permits that met goal	64%
		All permits that met goal	65%
	Tier 1 and 2	Priority permits that met goal	99%
		Non-priority permits that met goal	76%
		All permits that met goal	97%

Reasons for Delay in 2024

Tier	Priority	Applicant Related Delay	Agency Related Delay
Tier 1	Priority	7 (62%)	5 (38%)
	Non-priority	1 (12%)	7 (88%)
Tier 2	Priority	8 (35%)	15 (65%)
	Non-priority	10 (12%)	70 (88%)



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MESERB Permit Reviews

- MESERB provides expert permit review service for all members.
- Request service after receiving effluent limit notification letter or pre-public draft permit.
- Issue and trend spotting for members & often leads to cost-savings.



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Issues to Watch

- MPCA's PFAS Biosolids strategy implementation & EPA's Risk Assessment finalization
- Sulfate SSS development
- Nitrogen strategy implementation and rulemaking
- New administration's regulatory rollbacks
- Antidegradation
- Administrative updates to ordinances and user agreements



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Member Updates



Questions?



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Thank you!

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