

PART VI MINNESOTA COASTAL NONPOINT SOURCE PROGRAM

A. SUMMARY OF DEVELOPMENT AND STATUS OF STATE NPS PROGRAMS

1. Background

A major effort to combat water pollution began with the passage of the federal Clean Water Act of 1972. The basic goal of the Clean Water Act was to "restore and maintain the chemical, physical, and biological integrity of the nation's waters." This federal legislation created a variety of programs to control water pollution, with most of the responsibility for carrying out these programs assigned to state governments under supervision of the U.S. Environmental Protection Agency (EPA).

Under Section 319 of the Clean Water Act, nonpoint source pollution is defined as: *"Land management activity or land use activity that contributes or may contribute to ground and surface water pollution as a result of runoff, seepage, or percolation and that is not defined as a point source in Section 115.01, subdivision 15. Nonpoint sources include, but are not limited to, rural and urban land management activities and land use activities and specialty land use activities such as transportation." (Section 115.03. Subdivision 6).*

Section 208 of the Clean Water Act requires states preparing area wide waste treatment plants to consider aspects of nonpoint source pollution (NPS). In particular, different types of activities normally associated with NPS has to be identified, including agriculture, silviculture, urban construction, and mining activities. Once NPS problems were identified, methods could be examined to abate them through the use of "best management practices" (BMPs).

As a part of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), Congress created a stand-alone provision, Section 6217, which requires that states and territories with approved coastal management programs develop a coastal nonpoint pollution control program. The program must be submitted to NOAA and U.S. EPA for approval, and be implemented through changes to both the state coastal management program and the nonpoint source management program (Section 319, federal Clean Water Act). The State of Minnesota will submit its updated Nonpoint Source Management Program as the basis for an approvable Coastal Nonpoint Pollution Control Program to NOAA and U.S. EPA within 30 months of approval of MLSCP.

Approval of Minnesota's Section 6217 Coastal Nonpoint Pollution Control Program will come at a later time, after full program development and is not a part of the approval of Minnesota's Lake Superior Coastal Program.

2. What Is Nonpoint Source Pollution?

Even though the term "nonpoint source pollution" can be technically defined, the concept can be confusing. Not only are there a wide variety of human activities and land management practices considered to be potential nonpoint sources of pollution, but many of the activities which are

classified as nonpoint sources take place away from water. The concept of NPS can perhaps best be clarified by describing the relationship between the potential pollutant and the type of activity generating the pollutant.

Some of the more significant land use activities related to impairment of water quality in Minnesota include the following:

- C Urbanization of large land areas
- C Use of pesticides and fertilizers
- C Animal feedlots
- C Construction site practices
- C Septic systems
- C Forestry practices
- C Removal or modification of wetlands
- C Activities that accelerate erosion of roads, streambanks, and lakeshores
- C Cropland erosion

Contaminants associated with these land use practices are carried from land to water through stormwater or from snowmelt runoff, seepage into the soil or atmospheric deposition. All of these forms of pollutant movement from land to water, define the nature of nonpoint source pollution.

3. Recent Efforts in Minnesota

In the mid-1970s, the Minnesota Pollution Control Agency (MPCA), in cooperation with state and federal agencies and local officials, initiated the water quality management planning effort required under Section 208 of the Clean Water Act. The purpose of the planning effort was to identify significant water quality problems due to nonpoint sources of water pollution and set forth effective programs to correct those problems.

A number of significant developments impacted the original intent of the 1980 Minnesota Water Quality Management Plan. Fiscal, administrative and legislative constraints limited its implementation.

In 1987, the Clean Water Partnership Program was established by the Minnesota legislature. The CWP program was to protect and improve surface and ground water quality by providing state financial and technical assistance to local units of government.

Many of the activities, resources and accomplishments of the 208 planning process provided the basis for Minnesota's 1988 Nonpoint Source Management Program. This plan was designed to be an action plan for addressing nonpoint source problems over a four-year period. The plan was approved by the EPA in 1989.

In January 1993, a statewide planning effort was initiated to meet the NPS challenge and find

solutions that would be relevant for Minnesota over time. Recognizing the breadth of nonpoint source issues, the range of expertise needed to deal with them, and the distribution of legal authority, a concerted effort was made to actively involve a variety of federal, state, and local resource managers in the planning effort.

In 1994, the Minnesota Pollution Control Agency published and submitted to EPA its Nonpoint Source Management Program. The document was the result of a comprehensive planning effort. It reflects the priority needs and action steps necessary for the state to realize water quality goals through abatement of nonpoint source pollution.

Besides providing direction for nonpoint source pollution, the plan is a framework for funding opportunities under Section 319 of the Clean Water Act. The management plan builds upon and replaces the 1988 Nonpoint Source Assessment Report and the 1988 Nonpoint Source Management Program developed in 1987 under Section 319 guidance.

B. MINNESOTA'S APPROACH TO NONPOINT SOURCE POLLUTION

Minnesota relies on a balance of voluntary versus regulatory approaches in controlling nonpoint source pollution. For example, in agriculture, most approaches for dealing with nonpoint source issues have historically used a mix of voluntary and positive incentive approaches (technical and financial assistance). Negative incentives such as the highly erodible lands cross compliance feature of the 1990 Farm Bill have only been introduced recently.

The following tables list the tools and programs focusing on water quality improvement through control of nonpoint sources, and identify whether each tool or program is predominantly voluntary or regulatory. The purpose of this listing is to provide a snapshot of the current voluntary/regulatory mix in Minnesota.

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Table 62. Existing Tools for Addressing Nonpoint Source Pollution.

Tool	Voluntary	Regulatory
Local Ordinances		X
Comprehensive Plans	X	X
Cost-share Programs	X	
Citizen Monitoring	X	
Training Seminars	X	
Certification Programs		X
Compliance Monitoring		X
Use Restrictions (i.e., pesticides)		X
Structural BMPs	X	X
Zoning		X
Conservation Easements	X	
Interagency Coordination	X	
Demo Projects	X	
Performance Standards		X
Technical Assistance	X	
Developing TMDLs	X	X
Design Standards		X
Tax Incentives	X	
BMP Auditing	X	
Research	X	
Numeric Water Quality Standards	X	X
Technical Transfer	X	
Marketable Permits (Pt./NPS trading)	X	X
BMP Effectiveness Monitoring	X	
Trend Monitoring	X	
Education Programs	X	
Permitting Programs		X
Local Water Planning	X	
Penalties		X
Targeting	X	
Low Interest Loans and Grants	X	

Table 63. Existing Programs.

Program	Voluntary	Regulatory
Ambient Surface Water Monitoring	X	
Conservation Reserve Program	X	
Hydrologic Unit Areas Program	X	
Agricultural Conservation Program	X	
Ambient Ground Water Quality Monitoring	X	
Citizen Lake Monitoring Program	X	
Flood Plain Management Program		X
Regulation of Fertilizers Soil and Plant Amendments		X
MN Water Well Construction Code		X
NPDES Program		X
Public Water Supply Program		X
Individual Sewage Treatment System Program		X
Sludge Disposal Program		X
Water Quality Cert. Of Wetlands (401)		X
Wellhead Protection Program		X
Wastewater Treatment Facility Operator Certification/Training		X
MN Pesticide Control Act		X
Aquatic Plant Management Program		X
Local Water Planning Program	X	
Fish Contaminant Monitoring Program	X	
BWSR's Cost Share Program Through local county SWCD	X	
Clean Water Partnership Program Lake Superior Shoreline Protection Project	X	
Intensive Surveys Program	X	
Lake Sampling Program	X	
Lake Assessment Program	X	
Clean Lakes Program	X	
Forestry BMP Program	X	
Water Quality Special Projects	X	
Water Quality Demo Projects	X	

C. DEVELOPMENT OF A COASTAL NONPOINT PROGRAM

1. State of Minnesota Nonpoint Source Pollution: Existing Controls and Programs, Lake Superior Watershed Report - May 1995

Minnesota applied for and received a grant to develop a coastal management program in August of 1993. In June 1993, a coastal nonpoint source workshop introduced the requirements of Section 6217 of the CZMA Reauthorization Amendments of 1990. The nonpoint amendments require states with approved coastal programs to develop and implement a coastal nonpoint source pollution control program. The coastal nonpoint program was intended to be an update and expansion to existing nonpoint source pollution control programs. The guidance for the program, developed by EPA, identifies six major sources of NPS pollution (forestry, agriculture, wetlands, urban areas, marinas, and hydromodification) and the management measures (55 of them) that are required to be implemented to control water quality impairment from each source of pollution. The nonpoint amendments also provide standards for implementation, enforcement, monitoring, and program implementation time lines.

Many states with approved coastal programs, and states developing programs, including Minnesota, determined that compliance with the nonpoint program guidance would be potentially infeasible and unacceptable by the public. As a result, Minnesota DNR, the lead agency for coastal program development, and MPCA, the lead agency for NPS pollution, agreed to develop a coastal NPS document. The purpose of the document is to identify existing NPS program efforts in the coastal area and compare those efforts with nonpoint guidance.

In May 1995, a program document was developed in order to determine how Minnesota's existing state and local nonpoint source pollution controls meet Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) within the watershed of Lake Superior. The document was developed as a joint effort between the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, the Board of Water & Soil Resources, the Department of Agriculture, and Department of Health. Additionally, cooperation in the development and review of the document was provided by other state agencies and local units of government that administer nonpoint source pollution programs. The program document describes existing nonpoint source pollution programs in Minnesota's Lake Superior watershed and does not contain an evaluation of where programs could be strengthened or improved or where additional linkages could be established.

Within the document, six nonpoint source categories are addressed as individual chapters:

- C Agriculture
- C Forestry
- C Urban
- C Marinas
- C Hydromodification
- C Wetlands

Fifty-five management measures summarize existing authorities, regulations, programs, technical assistance, public education, and monitoring approaches which are being implemented in Minnesota, on a state and local basis.

In May 1995, a consultation process was initiated by Minnesota in order to receive early feedback from NOAA and EPA on the proposed approaches to meet the CZARA requirements. The comments provided in the consultation report (received January 31, 1996) address the program document and the discussions held at a meeting in Duluth on June 14, 1995 with state agencies, NOAA, and EPA.

2. General Comments from NOAA and EPA

Minnesota has many existing authorities and mechanisms that can be used to address the management measures of the above nonpoint source categories. There may be aspects of Minnesota's existing programs that do not fully meet program requirements for CZARA, but would be eligible for conditional approval. Additional documentation of specific programs is needed in order to determine which program elements are eligible for final program approval.

In the final submittal of a coastal nonpoint program, Minnesota will need to describe all the programs that support specific management measures for each source category. In addition, Minnesota will need to submit information in order to determine if source categories or specific management measures are not significant contributors to nonpoint source pollution, and therefore, do not need to be included in the program.

3. Next Steps

The Minnesota Pollution Control Agency, as lead agency for nonpoint source pollution, put together a work plan in order to continue development of a coastal nonpoint program.

The state maintains a position that existing regulatory and voluntary mechanisms exist in Minnesota to adequately meet the intent of the Coastal Nonpoint Program (Section 6217 of CZARA, 1990).

The Minnesota Pollution Control Agency will take the lead in developing a coastal nonpoint program. Minnesota intends to submit a coastal nonpoint pollution control program proposal to NOAA and EPA within 30 months after NOAA approval of the MLSCP to meet the 6217 program requirements. For further information on this planning effort, contact Lake Superior Coastal Management and Nonpoint Coordinator, MPCA, North District Duluth Office, 320 West Second Street, Duluth, Minnesota 55802, (218) 723-4898. A copy of the Minnesota Nonpoint Source Program Report for the Lake Superior Watershed or a copy of the NOAA/EPA Consultation Report can be obtained by contacting: DNR Waters, 1568 Highway 2, Two Harbors, Minnesota 55616, (218) 834-6620.



Minnesota Pollution Control Agency

October 15, 1998

Mr. Jeffrey R. Benoit, Director
Office of Ocean and Coastal Resource Management
NOAA - U.S. Department of Commerce
1305 East-West Highway, N/ORM3
Silver Spring, MD 20910

Dear Mr. Benoit:

Governor Arne Carlson will be submitting Minnesota's Lake Superior Coastal Program (MLSCP) to the National Oceanic and Atmospheric Administration (NOAA) for federal approval. After federal approval, the nonpoint pollution provisions of Section 6217 of the Coastal Zone Management Act Reauthorization Amendments of 1990 will apply to MLSCP.

The State of Minnesota believes that its existing comprehensive Nonpoint Source Pollution Management Program contains the authorities, assessments and implementation activities that provide the foundation of an approvable coastal nonpoint pollution control program. However, we recognize that NOAA and the U.S. Environmental Protection Agency (U.S. EPA) cannot make a final finding on that issue because the type and amount of information included in Part VI of MLSCP document clearly does not constitute a complete description and assessment of Minnesota's program under the requirements set out in NOAA and U.S. EPA Coastal Nonpoint Program guidance dated January 1993 and March 16, June 21, and June 28, 1995.

The State of Minnesota commits to submitting its coastal nonpoint source pollution management program to NOAA and U.S. EPA within 30 months of MLSCP approval. We look forward to working with you and your staff on this matter.

Yours truly,

A handwritten signature in black ink, appearing to read "Rodney W. Sando".

Rodney W. Sando
Commissioner
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A handwritten signature in black ink, appearing to read "Peder Larson".

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