From:	Darrell Gerber
To:	Gunderson, Larry (MDA)
Subject:	Nitrogen Fertilizer Rule Comments
Date:	Wednesday, January 27, 2016 1:25:42 PM
Attachments:	FWS_Comments_NFR_FINAL_2016_01_27.docx

Please find attached Freshwater Society's comments on the Proposed Nitrogen Fertilizer Rule.

Thank you,

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Educating and inspiring people to value, conserve and protect freshwater resources.

FRESHWATER SOCIETY

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January 27, 2016

Larry Gunderson
Minnesota Department of Agriculture
625 Robert Street North
St Paul MN 55155

Re: Proposed Rule Governing Nitrogen Fertilizer, Minnesota Rules, 1573; Revisor's ID Number R-04337 (Nitrogen Fertilizer Rule)

Mr. Gunderson:

Thank you for the opportunity to comment on the Minnesota Department of Agriculture's (MDA) Nitrogen Fertilizer Rule (the Rule). Freshwater Society has a history of working on the intersection of agriculture and water. Freshwater Society staff has participated in advisory committees for the Nitrogen Fertilizer Management Plan (NFMP) and the Minnesota Agricultural Water Quality Certification Program. Our 2014 report "Farm to Stream: Recommendations for Accelerating Soil and Water Stewardship" looked at improvements in the delivery of conservation BMPs in Minnesota.

Freshwater Society reviewed the Rule and offers these comments.

- Timing is too slow – Nitrate contamination of groundwater has been getting progressively worse across rural Minnesota for decades. The Minnesota Department of Health lists sixteen community public water supply systems with nitrates in their source water at concentrations over 10 mg/L in their "Minnesota Drinking Water 2015 Annual Report for 2014". They also found that about 10 percent of non-community systems are affected by nitrate contamination. This did not happen overnight and will not improve without immediate action. In those areas with known nitrate contamination issues, measures to reduce sources of nitrate pollution must be accelerated.
- Troubling early results – The NFMP called for increased testing of groundwater in areas at high risk of nitrate contamination. The first rounds of testing have revealed surprising and troubling results. Thirteen percent of wells tested in 2013-2014 have nitrate levels above the HRL, and some townships have more than half of wells tested that exceed the HRL. The Rule has not taken into account these surprising results. The results indicate that areas with high risk of nitrate contamination are likely to have excessive levels of nitrates in groundwater. The Rule should accelerate actions in vulnerable areas.
- Manage to prevent contamination – The Rule does not act until contamination levels in groundwater are already high enough to threaten

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public health. Given the slow rate of increase in nitrate levels, it seems prudent to act when statistical trends are going up—not waiting for them to reach 10 mg/L. This is an unnecessary shift of burden to drinking water users that can be prevented through reductions in nitrogen loss in the most vulnerable areas.

We appreciate the opportunity to review and comment on the Nitrogen Fertilizer Rule. We look forward to the opportunity to continue to work with the Department of Agriculture on these and other issues affecting the state's water.

Darrell Gerber

Research and Policy Director
Freshwater Society