

Midwest Environmental ADVOCATES

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The Heat is On the DNR to Enact Protective Water Temperature Standards Unregulated heat from water uses threaten fish spawning and aquatic habitat

Yesterday environmental groups including River Alliance of Wisconsin, Friends of Milwaukee's Rivers, Sierra Club, Trout Unlimited, Wisconsin Environment, and Midwest Environmental Advocates applauded the Department of Natural Resources' (DNR) proposed rules to reduce high temperature discharges that negatively impact fish and aquatic life in Wisconsin waters. Although DNR's proposal is not without flaws, the rule would put an end to the 30-year hiatus from regulation enjoyed by industrial dischargers of heat to Wisconsin waters.

High temperature discharges pose significant threats to fish and other aquatic life, making it difficult for fish to grow and reproduce, and potentially even causing fish kills. Pursuant to the federal Clean Water Act, DNR is required to set standards necessary to protect fish and aquatic life from lethal and dangerous conditions. Nearly 30 ago, DNR set such protective standards, but in 1979 the Wisconsin Supreme Court overturned portions of those standards, and DNR simply stopped regulating heated discharges. DNR's prior attempts to regulate these harmful discharges have been consistently attacked by industry. Now, at long last, DNR has proposed a comprehensive rule that, with the following modifications, will protect fish and the food they rely on so anglers will have better fishing opportunities.

DNR must amend the proposed rule to protect fish species from lethal temperatures during the most vulnerable reproductive and growth stages. Additionally, DNR must set more stringent standards necessary to protect several important sport fish species from dangerous and lethal conditions. DNR's proposed cap on discharge limits – the maximum temperature of wastewater coming out of the pipe – is very important, but should be combined with calculations that account for maximum tolerable spawning temperatures for all species in a river, lake or wetland during every season of the year.

The proposed rule allows variances for public wastewater facilities, and allows dischargers to seek alternative temperature limits. In order to be legal, the rule needs to

make clear that any variances cannot be less protective than Clean Water Act requirements applied to dischargers throughout the country and cannot degrade existing and potential uses for each water body. DNR's proposed rule is a good start, but in the end it must conform with all provisions of the Clean Water Act.

In the past, industry groups have been successful in blocking water temperature standards, and native fish species throughout the state have felt the heat. No doubt these same groups will make further attempts to weaken the proposed standards this time around. The environmental groups filing these comments urge the DNR to ensure that desperately needed temperature protections will preserve all aquatic life, a vital part of Wisconsin's economy and recreational opportunity.