

AGENDA

Minnesota Pollution Control Agency

Water Fee Advisory Committee

February 12, 2018

12:00 p.m. – 4:00 p.m.

MPCA Lower Level Conference Room

520 Lafayette Road

St. Paul, Minnesota 55155

Box lunch

Welcome

John Linc Stine

Reminder of Purpose/Scope/Product

John Linc Stine

Overview of today's agenda

Milt Thomas

Presentation of fee background information requested by Advisory Committee Members

MPCA staff

Discussion of principles

Milt Thomas

Gather questions *from* Advisory Committee Members

Milt Thomas

Closing note: What to expect next meeting

MPCA staff

Adjourn

Invited participants:

Jennifer Levitt, City of Cottage Grove

Julie Anderson, Mathiowetz Construction

Blaine Hill, City of Morris

Todd Prafke, City of St. Peter

Andy Welti, City of Medford

Norm Miranda, CIRSSD

Ned Smith, MCES

Rob Baranek, Cliffs Mining

Nicole Gries, Valero

Zach Lind, Driftless Fish Company

Yan Gao, Industrial (small)

Brian Koski, Septic Check/MOWA

Anthony Ekren, Riverview, LLP

Grant Bindford, Binford Farm

Adam Barka, Christensen Farms

Minnesota Administrative Rules

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7002.0251 WATER QUALITY PERMIT APPLICATION AND ADDITIONAL FEE TARGET.

The agency shall set the application and additional fee target as described in items A and C.

A. The unadjusted fee target is \$6,000,000 for each biennium (biennial target), as modified according to item B.

B. Beginning July 1, 2011, and each biennium thereafter, the unadjusted fee target in item A shall be adjusted for inflation using the aggregated annual consumer price index since 2009 and becomes the new unadjusted fee target.

C. The adjusted fee target is the unadjusted fee target adjusted as follows:

(1) if the agency failed to collect its fee target the previous biennium, the shortfall must be added to the next biennium's fee target; and

(2) if the agency collected more than its fee target the previous biennium, the excess must be subtracted from the next biennium's fee target.

Statutory Authority: *MS s 116.07*

History: *34 SR 1205*

Published Electronically: *March 11, 2010*

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7002.0252 COMPUTATION OF DOLLAR PER POINT FOR WATER PERMITS.

The agency computes the dollar per point value for each biennium as follows:

\$ per point = $T/(A + B)$ rounded up to the next five dollar increment, where:

\$ per point = dollar amount applied to points determined under part 7002.0253.

T = adjusted fee target, as determined in part 7002.0251, item C.

A = the previous five-year annual average number of points for each type of permit application in part 7002.0253, subpart 1.

B = the previous five-year annual average number of points for each type of additional activity in part 7002.0253, subpart 2.

Statutory Authority: *MS s 116.07*

History: *34 SR 1205*

Published Electronically: *March 11, 2010*

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7002.0253 WATER QUALITY PERMIT APPLICATION FEES AND ADDITIONAL FEES.

Subpart 1. **Application points.** The points assessed for each permit application, amendment, or water quality effluent limitation review designated in this subpart shall be multiplied by the dollar per point value as determined in part 7002.0252 to calculate the application fee.

A. A person requesting a water quality effluent limitation review shall pay a fee equal to five points for each preliminary effluent limit request submitted in advance of or separate from an NPDES/SDS permit application. If multiple requests for reviews are submitted to the agency over time, each request is subject to the fee.

B. A person submitting an application for a feedlot permit shall be assessed as follows:

- (1) for coverage under a general feedlot permit to construct or operate, a fee equivalent to two points;
- (2) for modification of activities under a general feedlot permit, a fee equivalent to two points;
- (3) for issuance of an individual feedlot permit to construct or modify, a fee equivalent to six points; and
- (4) for reissuance of an individual feedlot permit, a fee equivalent to two points.

C. A person submitting an application for discharge of wastewater, operation of a disposal system, or biosolids treatment or storage shall be assessed as follows:

- (1) for coverage under or modification of a general permit to construct or operate, a fee equivalent to four points;
- (2) for issuance of an individual wastewater permit or biosolids treatment or storage permit for a new facility, a fee equivalent to 30 points;
- (3) for a major modification with no construction, a fee equivalent to eight points;
- (4) for a major modification with construction but with no increase in design flow, a fee equivalent to eight points;
- (5) for a major modification with construction and an increase in design flow, a fee equivalent to 30 points;
- (6) for a minor modification requested by the permittee and not for the purpose of correcting permit errors, a fee equivalent to four points;
- (7) for reissuance of an individual permit, with no modifications requested by the permittee, a fee equivalent to four points;
- (8) for issuance of an individual pretreatment permit, a fee equivalent to eight points; and
- (9) for issuance of an individual dredge material disposal permit, a fee equivalent to eight points.

D. A person submitting an application for a sewer extension shall be assessed based on the additional design flow as follows:

- (1) to increase flows from 0 to 0.10 million gallons per day (MGD), a fee equivalent to one point;
- (2) to increase flows from greater than 0.10 to 1.0 MGD, a fee equivalent to two points; and
- (3) to increase flows greater than 1.0 MGD, a fee equivalent to three points.

Subp. 2. **Additional points.** The points assessed for activities designated in this subpart shall be multiplied by the dollar per point value as determined in part 7002.0252 to calculate the additional fee.

A. A person submitting an individual permit application under subpart 1 with a new or increased maximum daily design flow for an industrial facility, or average wet

weather design flow for all other facilities, shall be assessed a fee according to this item. The flow determination does not include noncontact cooling water, which is assessed points under item B:

- (1) if the resulting flow increase is 0 to 0.20 MGD, no additional fee shall be assessed;
- (2) if the resulting flow increase is greater than 0.20 MGD and less than 1.0 MGD, a fee equivalent to five points;
- (3) if the resulting flow increase is equal to or greater than 1.0 MGD and less than 5 MGD, a fee equivalent to ten points;
- (4) if the resulting flow increase is equal to or greater than 5 MGD and less than 20 MGD, a fee equivalent to 20 points;
- (5) if the resulting flow increase is equal to or greater than 20 MGD and less than 50 MGD, a fee equivalent to 30 points;
- (6) if the resulting flow increase is equal to or greater than 50 MGD, a fee equivalent to 40 points; and
- (7) if the resulting flow is from mine pit or quarry dewatering or sewer extensions, no additional fee shall be assessed.

B. A person submitting an application for an individual permit that includes the discharge of noncontact cooling water shall be assessed a fee based on the increased maximum daily design flow resulting from new or modified noncontact cooling water discharge as follows:

- (1) if the resulting increase in flow is less than 50 MGD, a fee equivalent to five points; and
- (2) if the resulting increase in flow is equal to or greater than 50 MGD, a fee equivalent to 20 points.

C. If a permit application requires a nondegradation review under parts 7050.0186, 7050.0250 to 7050.0335, or 7052.0300 to 7052.0330, the applicant shall pay a fee equivalent to 20 points.

D. If a permit applicant requests a variance under part 7000.7000, the applicant shall pay a fee equivalent to 35 points.

E. If a person makes a confidentiality request under part 7000.1300, the applicant shall pay a fee equivalent to two points. This fee applies regardless of whether it is requested as part of a permit application.

F. If an EAW is required under a mandatory category specified in part 4410.4300, the agency is the designated responsible governmental unit (RGU), and an air or water permit is required for the project, the applicant shall pay fees as described in subitems (1) to (3). If a facility requires both an air and water permit, the points for an EAW review shall be assessed only once. The agency shall use the lower of the dollar per point value for an air or water permit as calculated in part 7002.0018 or 7002.0252 to calculate the fee. Fees shall be assessed as follows:

- (1) if an applicant is required to complete an EAW under part 4410.4300, subpart 18, item A, or 29, a fee equivalent to 15 points;
- (2) if an applicant is required to complete an EAW under part 4410.4300, subpart 8, item A or B; 10, items A to C; 16, item A or D; 17, items A to C or E to G; or 18, item B or C, a fee equivalent to 35 points; and
- (3) if an applicant is required to complete an EAW under part 4410.4300, subpart 4; 5, item A or B; 13; 15; 16, item B or C; or 17, item D, a fee equivalent to 70 points.

Statutory Authority: *MS s 115.03; 116.07*

History: *34 SR 1205; 38 SR 1535; 34 SR 1205; 38 SR 1535; 41 SR 545*

Published Electronically: *December 9, 2016*

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Minnesota Administrative Rules

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7002.0254 WATER QUALITY STORM WATER PERMIT APPLICATION FEES.

For persons submitting an application to receive a permit related to storm water activities, the following fees shall be paid:

- A. for coverage under a general construction storm water permit, \$400;
- B. for coverage under an MS4 permit or modification of an MS4 permit, other than modification of a storm water pollution prevention program, \$400;
- C. for coverage under or modification of a general industrial storm water permit, \$400; and
- D. for those required to obtain an individual storm water permit, \$400 for the initial application, for modifications, and for reissuance.

Statutory Authority: *MS s 116.07*

History: *34 SR 1205*

Published Electronically: *March 11, 2010*

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Water Fee Rule Advisory Committee Meeting

February 12, 2018

Presentation of Background Information Requested by Advisory Committee Members

- MPCA Fee Collection: Authorities and Practice
- How the MPCA currently calculates water permit fees
- Recent effort to change MPCA water permit fee collection
- Status of MPCA Water Program Funding
- How funding shortages affect “service”

How MPCA Programs Collect Fees (Air)

- Authority found in MR [7002.0016](#)
- Based on primary air pollutants NO_x, PM₁₀, SO₂, Pb, VOCs
- If you generate <1 ton/year, the fee is \$25
- If you generate more, you pay per ton based on a formula to reach legislatively established biennial target of \$4M plus inflation (MR [7002.0018](#))

How MPCA Programs Collect Fees (Hazardous Waste)

- Annual and application fees for TSD facilities are based on disposition of the waste (MR [7046.0020](#)).
- Waste generators pay fees based on a formula factoring the amount they generate and the total amount of waste generated in the state (MR [7046.0031](#), [7046.0040](#), [7046.0060](#))
- Exemption for generators of < 100 pounds waste/year (MR [7046.0050](#)).

How MPCA Program Collect Fees (Solid Waste, Tanks)

Solid Waste:

- No fees
- Activities are funded by Solid Waste Management Tax

Tanks:

- All tanks must be registered (no fee)
- Largest 80 ASTs in the state get a permit (no fee)
- EPA funds the prevention side of the program
- EPA and State Petrofund fund the cleanup side

MPCA's Legal Authority to Collect Fees (Water)

Multiple Rule and Statutory Authorities

- Water Quality Permit Application Fee (MR [7002.0250](#))
- Annual Fee (MR [7002.0270](#))
- Stormwater Permit Application Fee (MR [7002.0254](#))
- Septic Tank Fees (MS [115.551](#))
- Training Fees (MS [115.03](#))

More Fee Facts

- New fees or fee increases must have legislative approval (MS [16A.1283](#))
- MPCA received ongoing legislative approval to increase fees in 2007/9
- The Administrative Law Judge report for the 2009 fee rule concluded that the 2009 legislation is “authority to cover the full costs of [the MPCA’s] operation of the air and water permit programs..”

MPCA Water Program Application Fees

They Vary:

- SSTS: Flat Fee of \$25 per tank installed
- Stormwater: Flat application fee of \$400 for all stormwater programs
- Municipal and Industrial Wastewater use a “point system” described in MR [7002.0252](#) and [7002.0253](#)

Point System Computation (MR 7002.0252)

T = Adjusted Fee Target (\$6,000,000/biennium + inflation factor)

A= Previous Five Year Annual Average number of points for each type of permit application

B= Previous Five-Year Annual Average number of points for each type of additional activity

Current charge: $T/(A+B) = \sim \$310/\text{point}$

Follows MR [7002.0310](#)

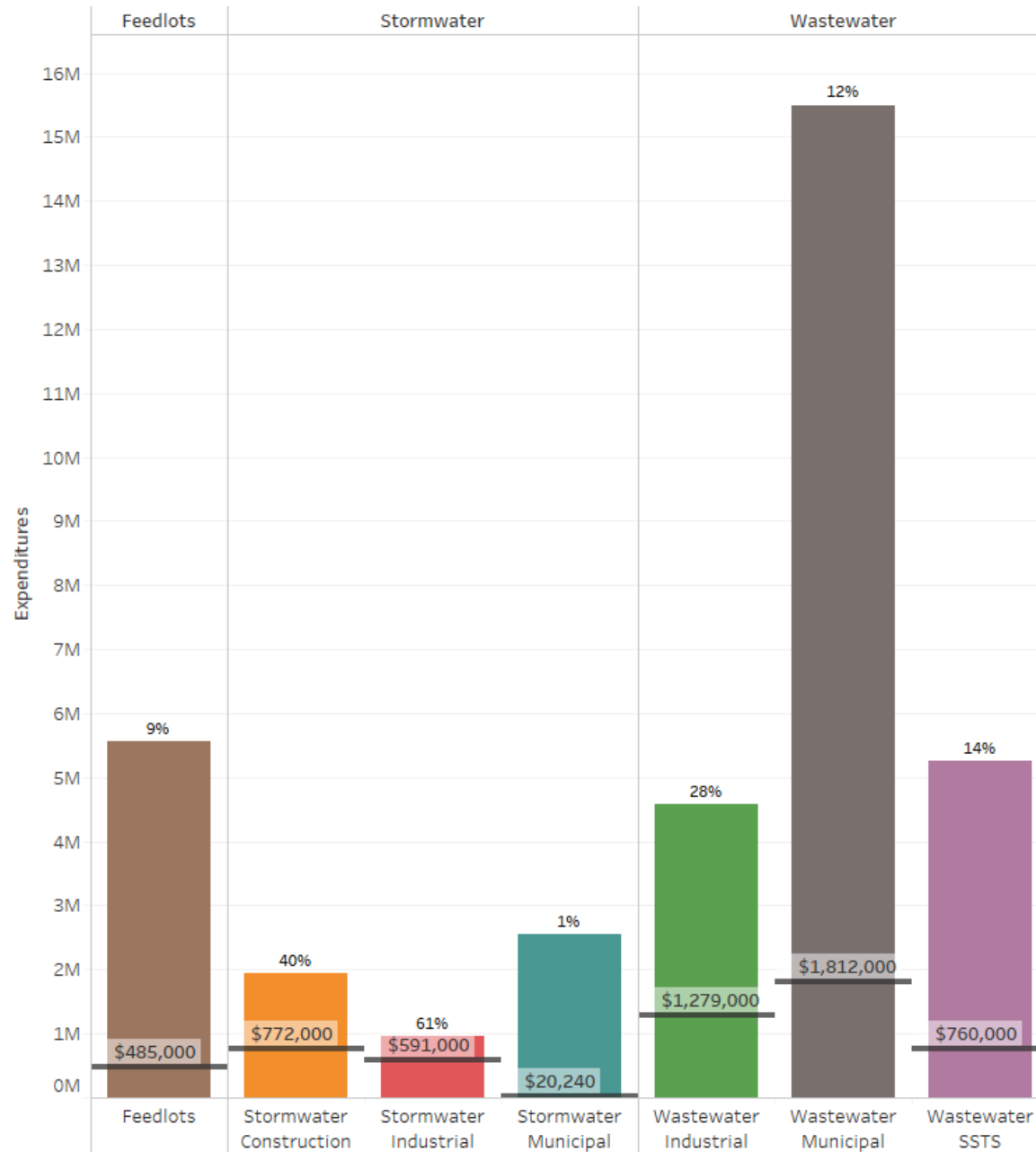
Fees vary based on:

- Municipal vs. Non-Municipal (*e.g.*, Industrial)
- “Tiered” Structure Based on Design Flow (MGD)
- Individual vs. General Permit

Last Fee Revision

- Made application fees reflective of permit type and level of effort
- Made all stormwater permittees pay an application fee (acknowledging in SONAR that the actual fee charge was an estimate and should be revised)
- Bring consistency with payment terms and comply with the law
- Bring program funding a bit more into balance between application and annual fees

FY 2017 - Water Quality Programs - Fee Revenue



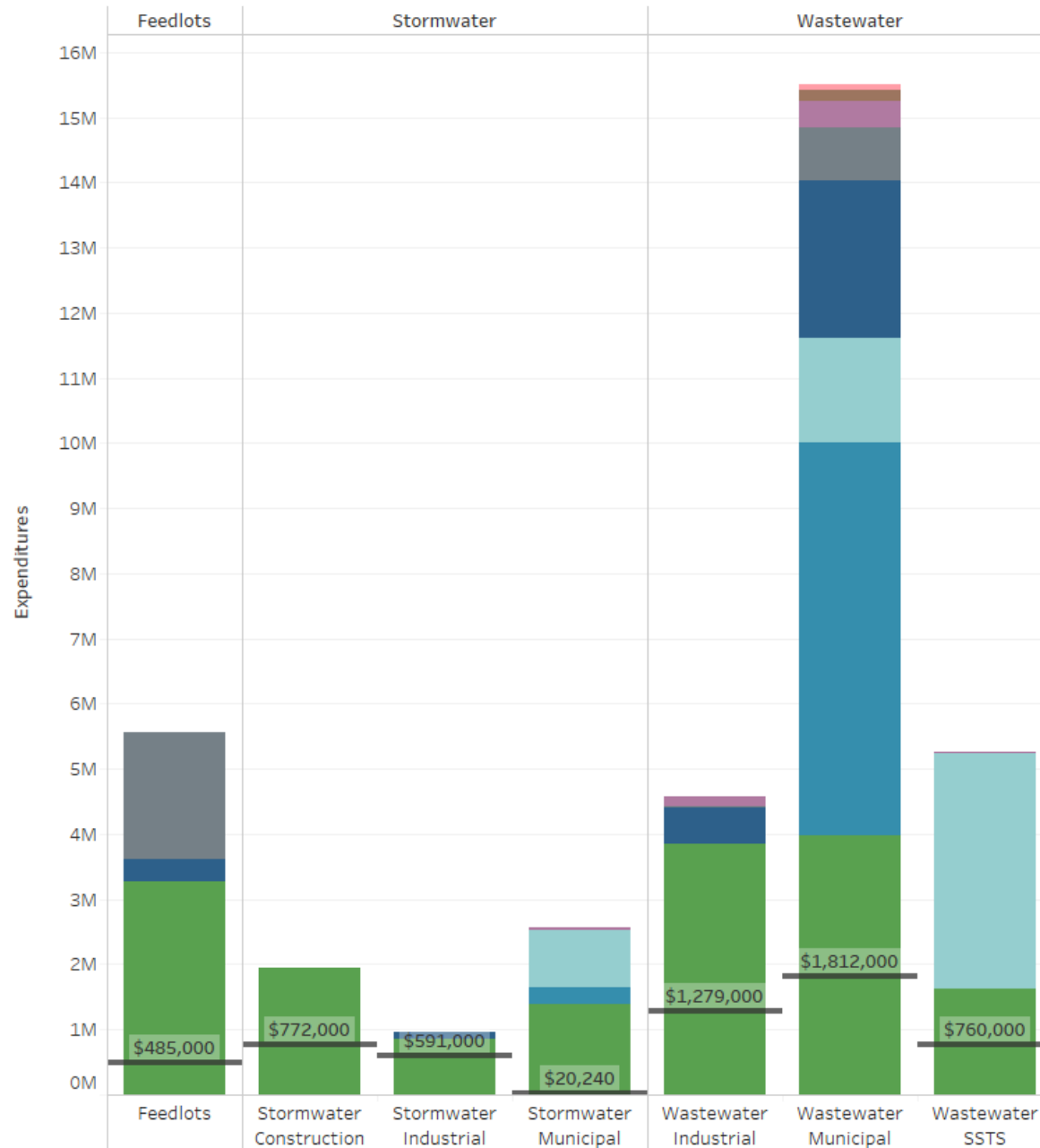
Program

- Feedlots
- Stormwater Construction
- Stormwater Industrial
- Stormwater Municipal
- Wastewater Industrial
- Wastewater Municipal
- Wastewater SSTS

Fee Revenue

Program	Expenditures	Fee Revenue	Percent Collected from Fees
Feedlots	\$5,570,000	\$485,000	9%
Stormwater Construction	\$1,947,000	\$772,000	40%
Stormwater Industrial	\$962,000	\$591,000	61%
Stormwater Municipal	\$2,560,000	\$20,240	1%
Wastewater Industrial	\$4,578,000	\$1,279,000	28%
Wastewater Municipal	\$15,500,000	\$1,812,000	12%
Wastewater SSTS	\$5,262,000	\$760,000	14%

FY 2017 - Water Quality Programs - Funding



Fund Name

- State Government Special Revenue
- LCCMR
- Special Revenue
- General Fund
- Federal Funds
- Clean Water Fund
- Clean Water Revolving Fund
- Environmental Fund

Fee Revenue

Clean Water: 2008 Clean Water, Land and Legacy Amendment for water management program activities.

Clean Water Revolving: Public Facilities Authority for engineering reviews of wastewater and stormwater plans.

Environmental: Where water quality fees are deposited. Regulated parties, Solid Waste Management Tax, Metropolitan Landfill Abatement Fees, Motor Vehicle Transfer Fees to be used for environmental purposes defined in state law, not limited to use by the MPCA.

Federal: EPA grant to complete a variety of defined water program activities.

General: Main state fund. Primary sources are income, sales, corporate income, and the statewide property tax.

LCCMR: Legislative-Citizen Commission on Minnesota Resources. Minnesota State Lottery proceeds and related investment income.

Special Revenue: From revolving training accounts for operators and from agreements with other state agencies.

State Government Special Revenue: For wastewater operator training.

Feedlots - Permit Activities

Program	Activity	Activity Type	FY 2017
Feedlots	Notifications	Notice of Construction or Expansion <300 AU	8
	Permit	Administrative Change	144
		Coverage Change-Major	9
		Coverage Change-Minor	10
		Coverage Issuance	447
		Coverage Termination	196
		Manure Management Plan Modification	22
		Permit Extension	1
		Permit Issuance	56
		Permit Reissuance	1
		Permit Termination	3
	Registration	Feedlot Registration New	175
		Feedlot Registration Update	6,293

Stormwater - Permit Activities

Program	Program Description	Activity	Activity Type	FY 2017
Stormwater	Construction Stormwater	Permit	Coverage Issuance	1,940
			Coverage Termination	1,057
			Subdivision Registration Coverage	787
			Subdivision Registration Termination	109
			Subdivision Registration Transfer Modification	33
			Transfer Modification	283
	Industrial Stormwater	Permit	Administrative Change	62
			Coverage Issuance	58
			Coverage Termination	27
			No Exposure Exclusion	89
			No Exposure Termination	20

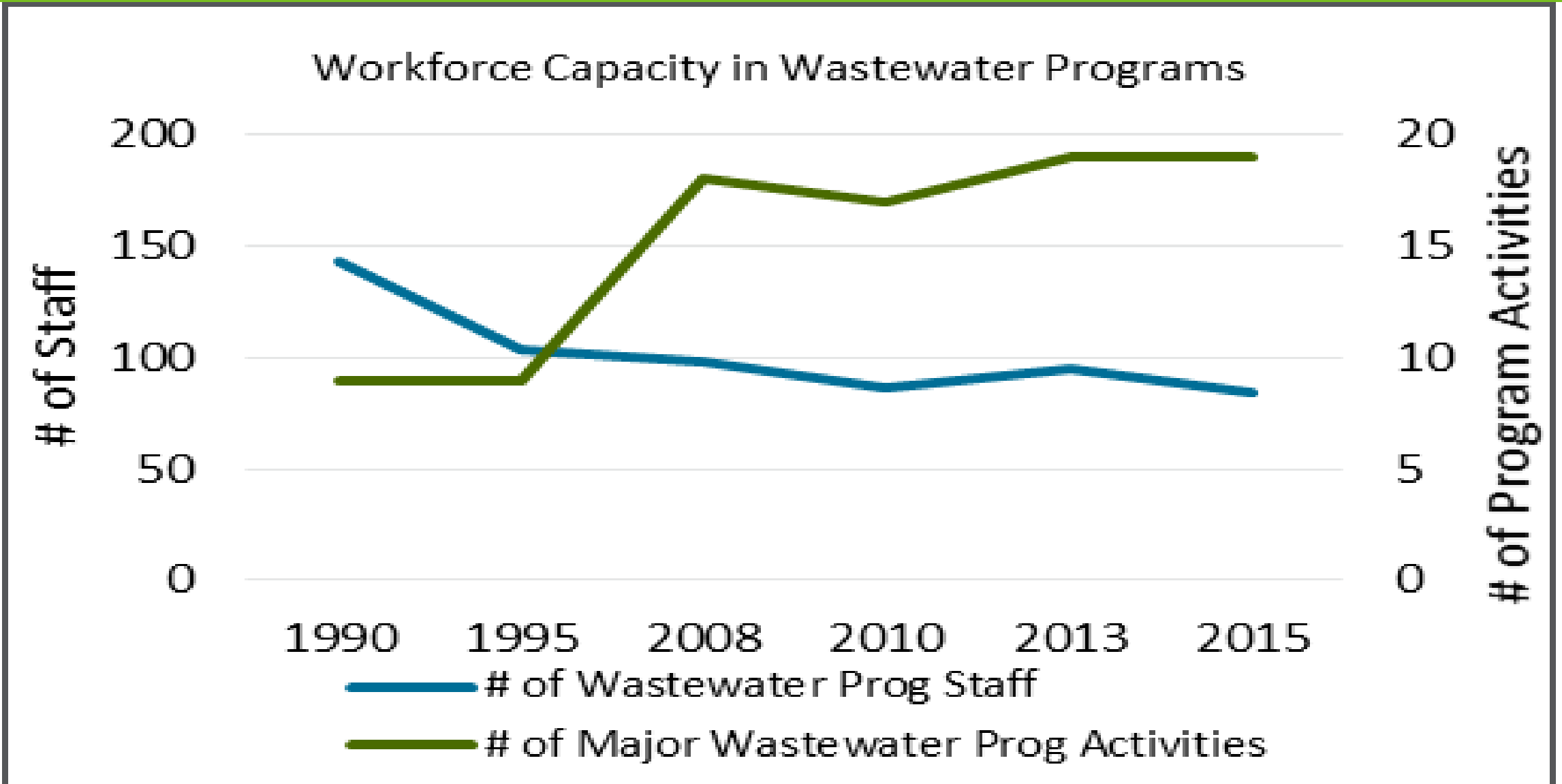
Wastewater - Permit Activities

Program	Program Description	Activity	Activity Type	FY 2017
Wastewater	Industrial & Municipal Wastewater	Land Application Permit	Land Application Site	33
			Administrative Change	35
			Coverage Administrative Change	3
			Coverage Change	12
			Coverage Issuance	26
			Coverage Termination	29
			Permit Change - Major	2
			Permit Change - Minor	37
			Permit Issuance	4
			Permit Reissuance	53
			Permit Termination	19

Wastewater - SSTS - Permit Activities

Program	Program Description	Activity	Activity Type	FY 2017
Wastewater	SSTS	Business License	Advanced Designer	54
			Advanced Inspector	45
		Designer	483	
		Inspector	521	
		Installer	863	
		Intermediate Designer	14	
		Intermediate Inspector	7	
		Maintainer	334	
		Service Provider	85	
		Individual Certification	Advanced Designer	24
			Advanced Designer (Conditional)	1
			Advanced Inspector	27
			Designer	160
			Designer (Apprentice)	41
	Designer (Conditional)		19	
	Inspector		170	
	Inspector (Apprentice)		35	
	Inspector (Conditional)		14	
	Installer		348	
	Installer (Apprentice)		70	
	Installer (Conditional)		12	
	Intermediate Designer		10	
	Intermediate Designer (Conditional)	3		
	Intermediate Inspector	11		
	Maintainer	131		
	Maintainer (Apprentice)	29		
	Maintainer (Conditional)	3		
Maintainer (Restricted)	1			
Service Provider	50			

A Bothersome Trend



How Services Are Already Affected

Currently:

- 57% NPDES permit backlog
- Complaint-driven enforcement
- Fewer Training and Certification sessions
- Excessive staff turnover – can't match competition salaries
- Not even a bench, let alone bench strength
- Reduced contact leads to increased fear and skepticism in the regulated community

The MPCA is currently not collecting the full amount of fees allowed in accordance with MR [7002.0251](#)

What Principles Should Govern the Water Permit Fee Structure?

We have some ideas....
...but we'd rather hear
yours

Water Fee Advisory Committee February 12, 2018
MPCA, St. Paul Office
Meeting Notes

Advisory Committee Attendees: Jennifer Levitt, Julie Anderson, Blaine Hill, Andy Welti, Ned Smith, Adam Barka, Grant Binford, Norm Miranda, Nicole Gries, Anthony Ekren, Brian Koski

MPCA: John Linc Stine, Rebecca Flood, Greta Gauthier, Mark Schmitt, Doug Wetzstein, Jean Coleman, Milt Thomas, Angela Hawkins, Paul Leegard, Susan Jaeger, Mary H. Lynn

Visitors: Brian Martinson, Tony Kwilas, Elizabeth Wefel, Randy Neprash, Amanda Bilek

Meeting summary:

Commissioner Stine opened the meeting with introductions and a re-cap of the Advisory Committees role. Commissioner Stine reiterated that there have been no decisions made on fees. MPCA will present information at today's meeting to start the discussion about our water fees. Our goal is to provide the Advisory Committee information in advance of the next meeting (March 16) so that the Advisory Committee has more information to react to.

The following items were identified for the next meeting agenda: a list of MPCA Continuous Improvement projects, how fee target tracks over time, and what are we aiming for and what did we actually get (points/revenue)?

Presentation of fee background information requested by Advisory Committee members:

Mark Schmitt presented fee background information; the PPT presentation will be posted on the Water Fee webpage with the February 12 meeting materials. Advisory Committee members had several questions and further information requests about the presentation including:

- Where did additional regulatory programs come from? MPCA responded most changes are driven at the federal level (e.g. stormwater) without funding provided. Litigation also drives some permitting actions.
- With statutory authority to increase fees with inflation, can MPCA go back and increase for inflation each year since 2010 that it did not increase fees? MPCA interprets the statutory authority to increase fees for inflation each year - application fees only. Some in the Legislature may not agree with MPCAs interpretation.
- Is the \$2 million (MPCA estimate if CPI adjusted amount had been collected each year) based on inflation change and is it part of 6 million-fee revenue? Yes, the \$2 million is part of the 6 million in fee revenue.
- Provide a list of what all is funded.
- Which programs are mandated versus those MPCA has initiated? Some programs are by MPCA choice, but are needed to do the mandatory work.
- What is policy driven vs. legislative driven?
- What are the "levers" 80/20 rule, what is driving costs? How much cost difference would it make?
- How do we compare to bordering states requirements (e.g. feedlots)?
- Complaint driven enforcement - are fines a source of revenue, does it cost more to pursue enforcement? Those that are compliant pay the price. MPCA notes that penalties collected go to legislative funds, not the programs.
- Where does the MPCA see room for savings improvement? Are there opportunities to streamline, expedite processing, to reduce backlog? MPCA notes process improvements have been made (e.g. construction stormwater online application). MPCA is working to do more but doing continuous improvement costs money. Continuous improvement vs. customer service/face time.
- What is your ultimate goal? Protect the environment.
- What to do about staff turnover - what is MPCA doing to be an employer of choice? Principle - work force strategy is important; staff turnover impacts regulated parties.
- Distinguish program goals by circumstances.

- Trying to reduce risk around litigation costs more.
- Another step of certification for consultants to share the burden?
- Train the trainers, certify people (experienced outside the state), providing another level of service providers.
- Host "schools" classes.
- How much is tied up in backlog? MPCA notes that the Legislature often directs the MPCA to construction, job creation activities (here's how the backlog grows, has been since 2010). Difficult to budget for revenue on the application side.

Advisory Committee suggested principles for proposed options to the existing water permit fee structure:

- Equity and compliance. Equitable treatment based on expectation of compliance.
- How to structure fees to reward compliance? MPCA notes this is very difficult to do and has stayed away from this approach.
- Services MPCA provides and products produced - what is the cost for products produced? Account for and justify the time spent. Determine how much time and cost to provide the service and base fee on this.
- Equity and fairness. Type of facility (e.g. farm or industry, municipal or industry).
- Equity based on user size.
- Some fee programs are not "as" associated with points; how were they created?
- If fees must be raised, a slow and steady increase is preferred (phased approach).
- Water programs and their outcomes need to be sustainable, anything beyond that considered catch-up. Sustainable programs and sustainable efforts need to be established. Baseline programs should be funded; pull catch-up work from general fund. When caught up, remove that part of fee. Request appropriation from Legislature to catch-up and/or funding for accelerated permits. MPCA notes that 7-8% of the agency budget is general fund dollars.
- Trends over time vis-a-vis points, aim vs. delivered.
- CPI may not be best benchmark (zero based). Actual cost of doing business, use that for next budget revenue/expenditures. MPCA - set goal (\$) based on desired outcome? What goals are best?
- 6 million target set by Legislature in 2010 - at that time, what was the percent of expenditures/revenue compared to today? It would be helpful to see the unadjusted fee target since and what that would look like.
- Impaired waters.

MPCA asked the Advisory Committee if we should provide fee options/scenarios to enhance the discussion. For example: base fee amounts, phasing in increases over time, not collecting full amount we could be collecting, percentage of program cost paid is equal.