

Minnesota Pollution Control Agency

Municipal Division

REQUEST FOR COMMENTS on Possible Amendments to Rules Governing Water Quality Fees, *Minnesota Rules*, Chapters 7002 and 7083; Revisor's ID Number R-04476

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is requesting comments on planned amendments to the water quality fee rules, *Minnesota Rules* Chapters 7002 (Permit Fees) and 7083 (SSTS Credentialing and Product Registration). The MPCA is considering amendments to the water quality fee rules that would increase permit application fees, additional fees, and annual fees. This includes fees for municipal and industrial wastewater permits, noncontact cooling water permits, stormwater permits, feedlot permits, septic systems, environmental review, variances, and laboratories required to be certified under *Minnesota Statutes*, section 115.84. The MPCA may make rule changes to some or all of these fees.

Plain English Summary. This Request for Comments is the MPCA's legal notice of its intent to begin rulemaking. This is an opportunity to provide comments on the MPCA's planned amendments to the rules and an opportunity for you to provide information or comment on any relevant issues related to this rulemaking. For example, we recognize that costs, and in particular, an increase in fees for regulated parties, are a concern. If you have cost information or data related to this rulemaking that you wish to share with us to inform our decisions, please submit that information in writing. Draft rule language is not available at this time. We want your written comments on the Subject of Rules section below. Comments should be submitted in writing as described in the Public Comment section below. More information about this rulemaking is available on the MPCA's Water Quality Fee Rule webpage at <https://www.pca.state.mn.us/amendments-water-quality-fee-rules>.

Stakeholder Video Conference. The MPCA will hold a video conference to share information on this rulemaking and to hear your thoughts and comments on planned amendments to the water quality fee rules. The video conference will be held simultaneously at the MPCA's St. Paul office and at the MPCA offices listed below on **Monday, July 24, 2017, 2:00 p.m. to 4:00 p.m., and 6:00 p.m. to 8:00 p.m.** Information about any additional stakeholder meetings that may be planned will be available on the MPCA's Water Quality Fee Rule webpage. The purpose of this video conference is to share information about amending the rules and clarify the MPCA's intent with this rulemaking so that stakeholders may effectively provide written informal comments on this rulemaking.

- MPCA St. Paul, Room 100 and video conference Room 4-1, 520 Lafayette Road North, St. Paul, MN 55155
- MPCA Brainerd, video conference room, 7678 College Road, Suite 105, Baxter, MN 56425
- MPCA Detroit Lakes, video conference room, 714 Lake Avenue, Suite 220, Detroit Lakes, MN 56501
- MPCA Duluth, video conference room, 525 Lake Avenue South, Suite 400, Duluth, MN 55802
- MPCA Mankato, video conference room, 12 Civic Center Plaza, Suite 2165, Mankato, MN 56001
- MPCA Marshall, video conference room, 504 Fairgrounds Road, Suite 200, Marshall, MN 56258
- MPCA Rochester, video conference room, 18 Wood Lake Drive Southeast, Rochester, MN 55904
- MPCA Willmar, video conference room, 1601 Highway 12 East, Suite 1, Willmar, MN 56201

Directions to these offices is available on the MPCA webpage at <https://www.pca.state.mn.us/about-mpca/mpca-offices> or by contacting the MPCA contact person listed in this notice. Please note access to the MPCA offices is controlled. To attend the video conference you will be asked to sign in at the security desk and provide photo identification, such as a driver's license. MPCA staff will be present at all locations to facilitate the video conference.

Submitting your comments and information at this stage in the rule development process allows the MPCA to consider your ideas, information you provide, and issues you may raise early in this rulemaking process, and helps to ensure informed decision-making on our part. If this rulemaking affects you in any way, the MPCA encourages you to participate in the rulemaking process.

Alternative Format/Accommodation. Upon request, the information in this notice can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the MPCA contact person via the contact information listed below.

Subject of Rules. The purpose of this rulemaking is to amend provisions related to water quality fees. Water quality fees have not kept pace with costs. As a consequence, the current fees authorized in the rules do not generate sufficient revenue to cover the costs of administering water quality programs associated with the fees. The rulemaking anticipates amending fee provisions in order to generate revenue that more closely covers the cost of administering fee-based water quality programs. The MPCA is authorized to collect permit application fees, additional fees, and annual fees. These include fees for municipal and industrial wastewater permits, noncontact cooling water permits, stormwater permits, feedlot permits, septic systems, environmental review, variances, and laboratories required to be certified under *Minnesota Statutes*, section 115.84.

The MPCA proposes to update fees to better reflect the actual agency costs of administering state and federal requirements associated with fee-based water quality programs that protect the state's water resources. Another purpose of the rulemaking is to adjust fees to reflect a more equitable distribution of permit costs among the broad spectrum of affected permittees. Finally, the MPCA will also consider rule changes to include an inflation factor to enable fees to reflect our increasing costs. To mitigate the initial impact of fee changes, the MPCA may propose a schedule for phasing in fee changes.

The MPCA is at the first stage of the rule process and invites comments and input on the subject of amending the water quality fee rules and the questions below. Please consider commenting and include the "why" behind your comment or recommendation, and the specific water quality program that is the subject of your comment. Instructions on how to submit comments are described in the Public Comment section below.

1. Are there particular existing fees the MPCA should focus on increasing and why?
2. Are there specific new fees the MPCA should consider and why?
3. Are there fee options or structures that the MPCA should pursue, for example a phase-in schedule or built-in step up for inflation increases?
4. Are there particular existing fees the MPCA should increase due to greater environmental risk of a project?
5. Are there particular existing fees the MPCA should not increase or even consider decreasing and why?
6. Are there constraints or factors regarding fee increases the MPCA should consider and why?

Persons Affected. The planned amendments to the rules will likely affect persons required to obtain a permit from the MPCA under *Minn. R. 7001.0020*, items C to F, and 7090.0030; or laboratories required to be certified under *Minn. R. 7001.4310* to 7001.4390. This includes permit application fees, additional fees, and annual fees associated with municipal and industrial wastewater permits, noncontact cooling water permits, stormwater permits, feedlot permits, septic systems, environmental review, and laboratories required to be certified under *Minnesota Statutes*, section 115.84.

Statutory Authority. *Minnesota Statutes*, section 116.07, subdivision 4d(a); section 115.03, subdivisions 1(j) and 1(n); section 115.551; section 115.77, subdivision 1; and section 115.84, subdivisions 2 and 3, authorize the MPCA to establish and collect water quality program fees.

Public Comment. Interested persons or groups may submit written comments on the Subject of Rules section and on other information related to this rulemaking until **4:30 p.m. on Monday, August 14, 2017**. Written comments or information should be submitted to the Office of Administrative Hearings Rulemaking e-Comments website at <https://minnesotaoah.granicusideas.com>. All comments received are public and will be available for review at the Office of Administrative Hearings. The MPCA will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The MPCA does not plan to appoint an advisory committee to comment on the possible rules.

The MPCA requests any information about whether the cost of complying with the rule in the first year after the rule takes effect will exceed \$25,000 for one small city or business under *Minnesota Statutes*, section 14.127.

The MPCA is interested in whether local governments might be required to adopt or amend an ordinance or other regulation under *Minnesota Statutes*, section 14.128 to implement these rules and therefore requests that local governments provide us with relevant information about their ordinances.

The MPCA also requests any information pertaining to the cumulative effect of the rule amendments with other federal and state regulations under *Minnesota Statutes*, section 14.131(8), as related to the specific purpose of the rule. Cumulative effect means the incremental impacts that result from the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

Rules Drafts. As stated above, draft rule language is not available at this time. If you are interested in being notified when a draft of the rules is available, please register for GovDelivery bulletins at <https://public.govdelivery.com/accounts/MNPCA/subscriber/new>. You may also contact the MPCA contact person and request to receive a draft of the rules when it is available.

MPCA Contact Person. The MPCA contact person is Mary H. Lynn at the MPCA, 520 Lafayette Road North, St. Paul, MN 55155-4194; telephone 651-757-2439; and mary.lynn@state.mn.us. You may also call the MPCA at 651-296-6300 or 800-657-3864 or use your preferred relay service info.pca@state.mn.us.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge if and when the MPCA starts a proceeding to adopt rules. The MPCA is required to submit to the Administrative Law Judge only those written comments received in response to the draft rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews your comments, you must resubmit the comments after the rules are formally proposed.

6/12/17
Date

John Linc Stine
John Linc Stine, Commissioner
Minnesota Pollution Control Agency