

Minnesota Pollution Control Agency

REQUEST FOR COMMENTS on Planned 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) requests comments on planned amendments to the water quality fee rules, *Minnesota Rules* Chapters 7002 (Permit Fees) and 7083 (Subsurface Sewage Treatment Systems Credentialing and Product Registration). Submit comments in writing as described in the Public Comment section below.

Stakeholder Meetings. The MPCA has scheduled stakeholder meetings on revising the water quality fee rules. At these public meetings, MPCA will share information about fee revisions and the intent of this rulemaking. These meetings will provide more information for stakeholders wishing to submit written comments on this rulemaking and water fee revisions. Information about the stakeholder meetings and WebEx is available on the rulemaking webpage at <https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>. The MPCA will hold meetings during the public comment period at the following locations:

- Wednesday, February 5, 2020. 1:00 p.m.–3:00 p.m. Douglas County Library, Large Conference Room, 720 Fillmore Street, Alexandria, MN 56308.
- Thursday, February 6, 2020. 10:00 a.m.–12:00 p.m. Marshall-Lyon County Library Community Room. 201 C Street, Marshall, MN 56258.
- Monday, February 10, 2020. 10:00 a.m.–12:00 p.m. MPCA St. Paul office Lower Level Conference Rooms. 520 Lafayette Road. St. Paul, MN 55102 and by videoconference at:
 - MPCA Brainerd office videoconference room. 7678 College Road, Suite 105, Baxter, MN 56425.
 - MPCA Detroit Lakes office videoconference room. 714 Lake Avenue, Suite 220, Detroit Lakes, MN 56501.
 - MPCA Duluth office videoconference room. 525 Lake Avenue South, Suite 400, Duluth, MN 55802.
 - MPCA Mankato office videoconference room. 12 Civic Center Plaza, Suite 2165, Mankato, MN 56001.
 - MPCA Marshall office videoconference room. 504 Fairgrounds Road, Suite 200, Marshall, MN 56258
 - MPCA Rochester office videoconference room. 18 Wood Lake Drive SE, Rochester, MN 55904
- Thursday, February 13, 2020. 1:00 p.m.–3:00 p.m. Olmsted County Government Center, Board Chambers. 151 4th Street SE, Rochester, MN 55904.

Persons Affected. The planned rule amendments will likely affect persons required to obtain a permit from the MPCA under Minn. R. 7001.0020, items C to F, and 7090.0030. Permit fees include application fees, annual fees, and additional fees. At this time, the MPCA is not considering increases to construction stormwater and industrial stormwater permit fees.

Subject of Rules. The MPCA is planning amendments to the water quality fee rules that would revise permit application fees, additional fees, and annual fees. This includes fees for municipal

wastewater and industrial wastewater permits, municipal stormwater permits, feedlot permits, and subsurface sewage treatment systems (SSTS) tanks and licensing. These amendments would also change the implementation of variance fees, though would not increase them.

Water quality fees have not kept pace with costs, so the current fees authorized in rule for water-related permitting do not generate sufficient revenue to administer the associated water quality programs. The MPCA plans to revise fees so that they reflect the Agency's costs to administer state and federal requirements associated with the fee-based water quality programs that protect the state's water resources. Revised fees are also needed to distribute permit costs equitably across affected permittees.

In a previous Request for Comments on this rulemaking published in the June 26, 2017 *State Register*, the MPCA asked for comment on amendments to the water quality fee rules and requested responses to six questions regarding fees. The MPCA Commissioner formed the Water Fee Advisory Committee in late 2017, after considering the comments received in response to that Request for Comments¹. The Advisory Committee included a broad range of stakeholders to ensure that both fee payers and system operators had input on proposed changes to water permit fees. After multiple meetings with the Advisory Committee, the MPCA prepared a report based on the perspectives, input, and feedback on water fees that the Advisory Committee provided over multiple meetings². The report contains the Advisory Committee's recommendations and preferred options for revising fees.

The Advisory Committee identified an overall target for all water permittees to pay at least 30% of the MPCA water program costs via permit fees. This target would generate approximately \$2 million in additional revenue. For programs in which fees currently exceed 30% of program costs, permit fees would not change. A concept document with more details on funding gaps and a plan to adjust fees is available at <https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>. In brief, the MPCA is considering the following adjustments:

- Feedlots:
 - Increased fee for General and Individual NPDES/SDS permits with construction
 - New fee for gap sites
 - New statewide fee for registration sites, using a tiered approach based on animal units.
- Municipal stormwater (MS4): increases to permit fees determined by type of permittee.
 - City or township: tiered fees based on population
 - County: fees based on percentage of urbanized area
 - Nontraditional MS4 (Institutions and MNDOT): fees based on acres of impervious surface
 - Watershed district: flat fee
- Industrial wastewater: increases to permit fees
- Municipal wastewater: increases to permit fees
- Subsurface sewage treatment systems: increases to tank fees and licensing fees

1. The PDF of comments received in response to the 2017 RFC are available at <https://www.pca.state.mn.us/sites/default/files/wq-rule4-19e.pdf>.

2. The report, *Water Fee Advisory Committee: Findings and Recommendations*, is available at <https://www.pca.state.mn.us/sites/default/files/p-rap2-7.pdf>.

- Salt applicator training: new fee to cover the cost of holding the training
- Variances: tiered fee based on design flow

At this time, the MPCA is not considering increasing fees for:

- Construction stormwater and industrial stormwater (current fees for these permits cover the targeted 30% of program costs)
- Environmental review

Some of these fee changes would require changes to statute, which the MPCA would seek.

Per the Advisory Committee's recommendations, the MPCA would phase fees in over a 3-6 year period.

The MPCA requests comment on this timeline as well as the concept document located at:

<https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>.

Public Comment. You may submit comments or information related to the Subject of Rules section or topics related to this rulemaking until **4:30 p.m. on March 13, 2020**. Submit written comments to the Office of Administrative Hearings (OAH) Rulemaking e-Comments website at <https://minnesotaoah.granicusideas.com>. If it is not possible to use the eComments website, comments may be submitted in person, via United States mail, or by facsimile addressed to Denise Collins, Office of Administrative Hearings Court Administrator, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620 or at 651-539-0310 (fax). Any questions about submitting comments using the eComments website should be directed to Denise Collins, OAH, at 651-361-7875 or denise.collins@state.mn.us. All comments received are public and will be available for review at the Office of Administrative Hearings and on the OAH Rulemaking eComments website at <https://minnesotaoah.granicusideas.com>. After the close of the comment period on **March 13, 2020**, the comments will also be available for viewing at the MPCA's rulemaking website <https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>.

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 another advisory committee for this rulemaking.

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 comments including relevant information about their ordinances.

The MPCA also requests any information pertaining to the cumulative effect of the rule amendments with other federal, tribal or state regulations under Minnesota Statutes, section 14.131(8), as related to the specific purpose of the rule. Cumulative effect is the impact resulting from incremental effects of the proposed rule in addition to other state, tribal government or federal agency rules.

Rules Drafts. As stated above, draft rule language is not available at this time. If you are interested in receiving notice when a draft of the rules is available, please register for GovDelivery bulletins on the Water Fees Rulemaking website at <https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>. You may also contact the MPCA contact person and request to receive a draft of the rules when it is available.

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.

MPCA Contact Person. The MPCA contact person is Mary H. Lynn at the MPCA, 520 Lafayette Road North, St. Paul, MN 55155-4194; at 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.

Alternative Format. Upon request, this information 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 above.

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 want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

January 12, 2020

Dated:



Laura Bishop
Commissioner MPCA