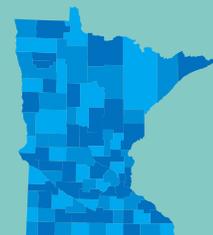


January 2020

Water Fees Rule Concept Document

Information on the Minnesota Pollution Control Agency's rulemaking to adjust water fees.



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Disclaimer: The funding data in this document are based on Minnesota Pollution Control Agency (MPCA) data as of December 31, 2019, and subject to change.

Introduction and background

Introduction

This document provides an overview of what the Minnesota Pollution Control Agency (MPCA) is considering in our water fees rulemaking.

We are at the initial stage of the rulemaking process, and we are sharing our proposed concepts for revising water fees rules. This document will help readers understand the potential rule revisions we are considering and the reasons why we need to make the changes. We welcome comments on any or all of this rule concept document. Instructions for submitting comments are at <https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>.

Background and purpose of the rulemaking

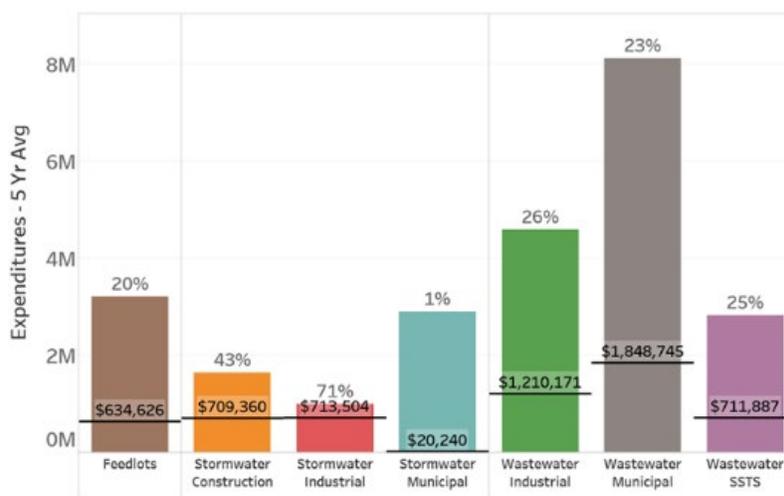
The MPCA protects and improves water quality through permitting, compliance and enforcement, technical assistance, outreach, and training and certification activities. We accomplish this through water quality regulatory programs: municipal wastewater, industrial wastewater, municipal stormwater, construction stormwater, industrial stormwater, septic systems, and feedlots. The fees we collect from these programs cover only 17% of their overall operational costs. We have not comprehensively increased fees across some water programs in nearly 25 years. User-paid fees are insufficient to cover our costs, and they are inconsistent across programs (figure 1).

We cover most program costs through funding mechanisms including the state's Environmental Fund, Clean Water Fund, and General Fund dollars as well as some federal funds. All of these funding sources are unpredictable and unstable long-term to some degree, but especially the Environmental Fund because while it constitutes the majority of the funding for most of the MPCA's water quality regulatory

programs, the largest amount of it comes from the solid waste management tax. This existing and non-dedicated funding mix is unsustainable; data suggest that revenue from at least some of the current sources will decline and/or fail to keep pace with inflation. At the same time, there is increased demand for more innovative approaches and technical assistance from MPCA staff. These types of permitting approaches and complex projects take more staff time and siphon resources away from other program functions.

Figure 1. Current water fee revenue by program

The colored bars represent the total cost of each program, using a five-year average of expenditures. The black line across each bar demonstrates the current fee revenue for each program. The percentages show how much of the program cost are covered by fees.



After an initial request for comments issued on June 19, 2017, we determined that MPCA water fees required more input from stakeholders before we could proceed with rulemaking. In late 2017, previous MPCA Commissioner Stine formed the Water Fee Advisory Committee, with members from cities, businesses, and sanitary districts that hold water permits. We asked the Committee to analyze the need for water fee increases and to make recommendations for MPCA rulemaking. Between January and June 2018, the Committee met six times. The Committee received briefings from MPCA staff on programs and finances related to water fees. The Committee analyzed data, provided feedback, completed a survey on potential options, and offered recommendations to the Agency. In January 2019, the Committee reported on its recommendations¹. Members generally agreed on the following key points:

- Current fee revenue is inadequate to support MPCA water quality regulatory programs.
- Although no one wants fee increases, raising fees is reasonable given the circumstances.
- The MPCA should use additional fee revenue to increase assistance and improve interactions with permittees.
- Permittees should pay 30% of program costs, or else 25-40% based on their current percentage.
- The MPCA should phase in any fee increase over three to six years.

Building on the Committee's recommendations, we began developing rulemaking concepts for a second request for comments. For the past few months, we have engaged representatives of the water regulatory program sectors to solicit pre-rulemaking input on these concepts. We had conversations with the League of Minnesota Cities, the Coalition of Greater Minnesota Cities, the Minnesota Chamber of Commerce, the Minnesota Cities Stormwater Coalition, feedlot industry representatives, and the Minnesota Onsite Wastewater Association (septic industry professionals). We intend to develop a rulemaking proposal that takes into account not only the Committee's recommendations, but also feedback we have heard from the recent stakeholder engagement. This includes:

- Increasing fees so that revenue covers 30% of costs of each regulatory program.
- Using tiered approaches to make fees equitable (e.g., small cities should pay a smaller stormwater fee than large cities pay).
- Not changing fees for regulatory programs where fee-payers already pay more than 30% of program costs (Construction stormwater and industrial stormwater are the only programs that meet this condition).
- Exploring the need to raise the fees for subsurface sewage treatment systems (SSTS) professional licenses/certifications and enacting a fee to cover the cost for salt applicator training classes.

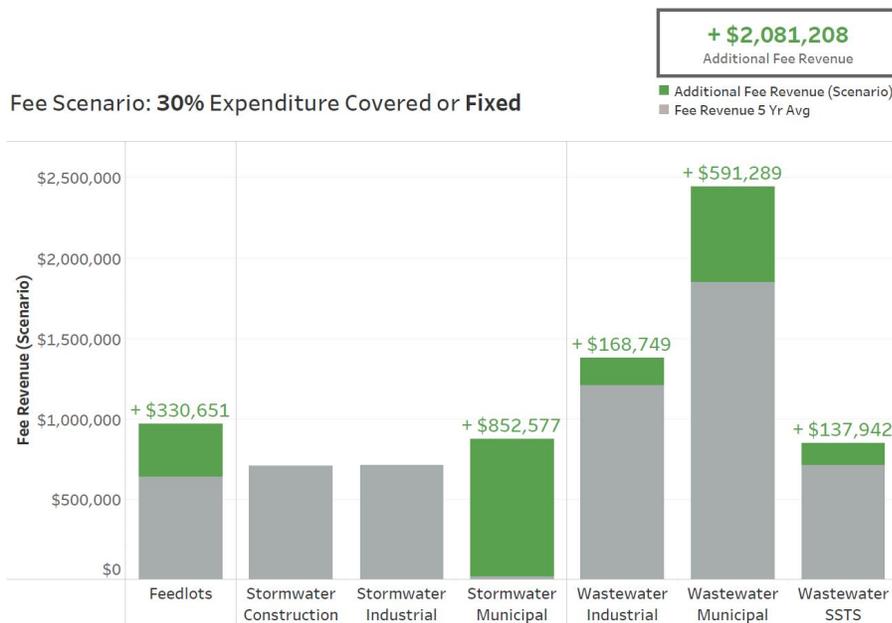
¹ View the report at: <https://www.pca.state.mn.us/sites/default/files/p-rop2-7.pdf>

Water fees rules proposal

We propose increasing fee revenue to cover 30% of costs (based on five-year average expenditures) for each program. Program users that already pay more than 30% of program costs would not see any change (figure 2).

Figure 2. Current water fee revenue by program

The colored bars represent the total cost of each program, using a five-year average of expenditures. The black line across each bar demonstrates the current fee revenue for each program. The percentages show how much of the program cost are covered by fees.



The following sections of this concept document give further details for how changes would affect users in each water quality regulatory program.

Feedlots

The feedlot program costs \$3,217,592 to operate each year (based on the five-year average). Current fees cover \$634,626 of that need. We propose restructuring fees to result in a total revenue of \$965,278 (table 1). In order to accomplish this, we propose the following changes:

- Create a new statewide fee for registration sites.
- Create a new fee for concentrated animal feeding operations (CAFOs) without NPDES/SDS permit coverage.
- Increase the fee for General and Individual NPDES/SDS permits with construction.

Table 1. Proposed changes to feedlot program fees

Proposed feedlot program fee revenues include a combination of new fees and fee increases to some permits. Some existing fees will remain the same

Feedlot Type	Fee Name	Fee Type	Construction	Animal Units	Current Fee	30% Fee Scenario
Permitted	General permit	Annual	-	-	\$345	\$345
		Application	No	-	\$620	\$620
			Yes	-	\$620.00	\$1,240
	Individual permit	Annual	-	-	\$1,230	\$1,230
		Application	No	-	\$1,860	\$1,860
			Yes	-	\$1,860	\$2,480
Registered	Registration	Annual	10 – 299.9 AU		\$0	\$12.50
			300 – 499.9 AU		\$0	\$25
			500 – 999.9 AU		\$0	\$50
			CAFOs without NPDES/SDS permit coverage		\$0	
					\$0	\$175

Municipal separate storm sewer systems (MS4)

Currently, all MS4 permittees, whether their population is 1,000 or 100,000, pay a flat \$400 application fee every five years. This revenue generates only 1% of the approximately \$2,909,391 million in program operational costs over each year (based on the five-year average).

We have constructed our proposal to create a more equitable distribution of permit fees to total a targeted 30% funding (\$873,000) of our yearly MS4 program costs. All users would see an increase in their fees, but we have developed a tiered annual fee to account for differences in size and type of MS4 permittees (*table 2*).

Table 2. Proposed changes to MS4 fees

Distribution of permit costs will depend on the type of MS4 and the population, urbanized area, or size of the permittee. All permittees will see a fee increase.

Type of Permittee	Fee based on	Fee Detail	Current Fee (every five years)	30% Fee Scenario (annual fee)
City or township	Population	1,000 or fewer	\$400	\$500
		1,000 – 3,000	\$400	\$1,000
		3,001 – 10,000	\$400	\$2,000
		10,001 – 30,000	\$400	\$4,000
		30,001 – 50,000	\$400	\$6,000
		50,001 – 75,000	\$400	\$9,000
		75,001 – 100,000	\$400	\$12,000
		100,001+	\$400	\$18,000
County	Percent urbanized area	0% – 24%	\$400	\$1,000
		25% – 49%	\$400	\$2,000
		50%+	\$400	\$3,000
Non-traditional (colleges, prisons, etc.)	Developed land (acres)	0-149	\$400	\$500
		150+	\$400	\$1,000
MNDOT	Flat fee		\$400	\$3,000
Watershed districts	Flat fee		\$400	\$500

Industrial wastewater

Industrial wastewater programs currently cover 26% of the \$4,596,398 yearly program costs (based on the five-year average). Our proposed plan slightly increases the per-point application fee and increases the annual fees of all permittees (*table 3*).

Table 3. Proposed changes to industrial wastewater fees

Our proposed scenario for the industrial wastewater program includes increases to each type of fee.

Fee Type	Permit Type	Design Flow	Current Fee	30% Fee Scenario
Application	Per Point	-	\$310	\$353
	General	-	\$345	\$393
		20-49 MGD	\$44,200	\$50,363
		5-19 MGD	\$18,250	\$20,795
	Major Industrial	<5 MGD	\$8,450	\$9,628
	Major Industrial-Cooling/Mine Pit	Any Flow	\$16,900	\$19,257
Annual	Nonmajor Industrial	-	\$1,230	\$1,402

Municipal wastewater

Municipal wastewater permit costs are based on permit type and facility size. The current fee revenue covers 23% of the yearly program cost of \$8,133,448 (based on the five-year average). Raising application point and annual fees to cover 30% of our operational costs (*table 4*) would increase fees relatively modestly for users and bring in nearly \$600k in additional revenue to support the program.

Table 4. Proposed changes to municipal wastewater fees

This table includes a proposed breakdown of fee increases for the various municipal wastewater permit types.

Fee Type	Permit Type	Design Flow	Current Fee	30% Fee Scenario
Application	Per Point	-	\$310	\$409
	General	-	\$345	\$455
	Major Municipal	50+ MGD	\$175,500	\$231,631
		20-49 MGD	\$40,350	\$53,255
		5-19 MGD	\$14,350	\$18,940
		<5 MGD	\$5,900	\$7,787
	Nonmajor Municipal	>100K GD	\$1,450	\$1,914
0-100K GD		\$505	\$667	
Annual	Nonmajor Municipal-Sewage	-	\$500	\$660

Municipal wastewater variances

Variance applications for municipal wastewater NPDES/SDS permittees currently cost a flat \$10,850. We propose creating a more equitable structure based on the size of facilities and the populations they serve (*table 5*). Additionally, because of our lack of sufficient funding for our water programs, we will be ending the fee waiver that the previous MPCA administration instated for chloride variances.

Table 5. Proposed changes to municipal wastewater variance fees

Under our proposed variance fee structure, variance application costs would depend on the flow of the wastewater treatment facility in question.

Fee Type	Flow (Gallons/Day)	Points (\$310 per point)	Current Fee	New Fee Scenario
	0-99,999	2	\$10,850	\$620
	100K-999,999	6	\$10,850	\$1,860
	1-4.99M	10	\$10,850	\$3,100
	5-19.99M	20	\$10,850	\$6,200
	20-49.99M	30	\$10,850	\$9,300
Variance	50+M	50	\$10,850	\$15,500

Subsurface sewage treatment systems (SSTS)

SSTS fees include license fees and tank fees. A modest increase to each of these would raise fee revenue to \$850,000, which is 30% of our total \$2,832,763 yearly cost to run the program (based on the five-year average). However, these fees are in both rule and statute, so the proposed changes (*table 6*) would require accompanying legislative action to change the statutes.

Table 6. Proposed changes to SSTS fees

This table includes a proposed breakdown of fee changes in the SSTS program. In this scenario, both tank and license fees would increase.

Fee Type	Current Fee	30% Fee Scenario
License Specialty Max	\$400	\$478
Per License Specialty	\$200	\$239
Per Tank	\$25	\$30

Chloride training fees

The authority to charge fees to cover costs of training are in statute and will need to be pursued in a different effort than this rulemaking.

More information

More information about this rulemaking is available on the MPCA's Water Quality Fee Rulemaking webpage at <https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>