

Minnesota Pollution Control Agency

REQUEST FOR COMMENTS on Planned Amendments to Rules Governing Water Quality Fees, *Minnesota Rules*, Chapter 7002; Revisor's ID Number R-04476; OAH Docket #65-9003-34479

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) requests comments on planned amendments to the water quality fee rules, *Minnesota Rules* Chapter 7002 (Permit Fees). Submit comments in writing as described in the Public Comment section below.

Stakeholder Webinar. The MPCA will hold a stakeholder webinar about this rulemaking on August 16, 2022, from 2:30-3:30pm. At this public webinar, MPCA will share information about fee revisions and the intent of this rulemaking. This webinar will provide more information for stakeholders wishing to submit written comments on this rulemaking and water fee revisions.

For video and audio connection to the virtual webinar, join through an internet connection using a smartphone, computer, or tablet:

Enter: <https://minnesota.webex.com>

Meeting number: 2483 313 8637

Password: 5iTRM2825F7 (54876282 from phones)

For audio connection only, join the webinar by phone:

Call: 1-415-655-0003 (US Toll)

Access code: 2483 313 8637

Additional information regarding this stakeholder meeting and the rules being proposed is at <https://www.pca.state.mn.us/water/amendments-water-quality-fee-rules>.

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, though not all of these will be adjusted for all programs.

Subject of Rules. The MPCA is planning amendments to the water quality fee rules that would revise some permit application fees, additional fees, and annual fees. This includes fees for municipal and industrial wastewater permits; municipal, construction, and industrial stormwater permits; and feedlot permits. These amendments would also change the implementation of variance fees, though it would not increase them.

Water quality fees have not kept pace with costs and generate about 20% of the cost of administering MPCA's fee-based water quality programs. The amount collected will vary year to year due to the cyclic nature of permitting. The MPCA plans to increase the permittees' share of the cost to administer state and federal requirements associated with the water quality programs that protect the state's water resources, while distributing those permit costs more equitably across affected permittees.

The MPCA has issued two previous Requests for Comments (RFC) on this rulemaking in the June 26, 2017, and January 10, 2020, *State Register*. In the 2017 RFC, 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 Comments.¹ 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.² The report contains the Advisory Committee's recommendations and preferred options for revising fees.

Following the Advisory Committee report, the MPCA developed a concept document and issued the second RFC. In response to the feedback from the second RFC, MPCA has made significant changes to the proposal and written a new concept document detailing a more equitable and holistic fee schedule, on which comments are requested now. Both the old and new concept document 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 fees for new applications, major modifications, and general permit annual fees
 - Decreased minor modification application fees and individual permit annual fees
 - Add annual fee for gap sites
- Construction stormwater:
 - Tiered fees based on project size
 - Add subdivision registration fee
- Industrial stormwater:
 - Increased annual fee
 - Add no exposure fee
- Municipal stormwater (MS4): tiered increases to permit fees determined by type of permittee.
 - City or township: based on population
 - County: based on percentage of urbanized area
 - Nontraditional MS4 (Institutions and MNDOT): based on acres of impervious surface
 - Watershed district: flat fee
- Industrial and municipal wastewater
 - Tiered increases based on design flow
 - Variances adjusted to tiered fee structure based on design flow
- At this time, the MPCA is not considering increasing fees for:
 - Subsurface sewage treatment system tank and licensing
 - Salt applicator training

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 September 2, 2022**. 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

¹ The PDF of comments received in response to the 2017 and 2020 RFCs are available at <https://www.pca.state.mn.us/sites/default/files/wq-rule4-19e.pdf> and <https://www.pca.state.mn.us/sites/default/files/wq-rule4-19j.pdf>, respectively

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>.

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 **September 2, 2022**, 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 Claudia Hochstein at the MPCA, 520 Lafayette Road North, St. Paul, MN 55155-4194; at 651-757-2622; and claudia.hochstein@state.mn.us. You may also call the MPCA at 651-296-6300 or 800-657-3864 or use your preferred relay service or email 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.



Katrina Kessler, Commissioner
Minnesota Pollution Control Agency

July 25, 2022

Date