



Minnesota Cities Stormwater Coalition

Municipal stormwater professionals
working together for clean water

August 14, 2017

Mary Lynn
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

OAH Docket # 65-9003-34479

Re: Possible Amendments to Rules Governing Water Quality Fees,
Minnesota Rules, Chapters 7002 and 7083; Revisor's ID Number R-
04476.

Dear Ms. Lynn:

Thank you for the opportunity to comment on the above-referenced proposed amendments. The following comments are offered on behalf of the Minnesota Cities Stormwater Coalition (MCSC). MCSC is comprised of about 130 of the cities in Minnesota that are regulated under the MS4 stormwater permitting program. Any changes to the MS4 permit fees will affect all our member cities.

We understand and appreciate the MPCA's needs to revisit permit fees. We ask that any increases to the MS4 permit fees be meaningfully constrained. Our reasons are as follows.

1. The MPCA has had multiple occasions to determine the appropriate fees for MS4 permits, both general permits and individual permits. For the MS4 General Permit, this was done when the permit was first promulgated in 2003. We assume the fee structure was revisited when the MPCA revisited the Air & Water Permit Fees Rule in 2009. The MS4 General Permit fees were deliberately and consciously set quite low and kept that way for many years. We believe the MPCA had multiple reasons for this decision. We urge the Agency to find those reasons and consider them during this rulemaking process. Despite the Agency's current stated "need" to use increased permit fees as a source for additional revenue, we believe that the MPCA's reasons to set and keep MS4 permit fees low are still valid and fair today.

Staff:

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2. Cities have very limited funds to address water quality. There are multiple constraints on increasing local implementation funding. An increase in MS4 permit fees will simply result in less money spent on local implementation to comply with the permit requirements and improve & protect water quality. This is not a desirable goal for the MPCA or the permitted cities.
3. The MS4 permits differ from other types of water permits issued by the MPCA.
 - a. The concept of “polluter pays” is applicable to permits for specific sites for private companies. It is much less applicable to a permit that covers non-point pollution from sources everywhere in an urban landscape in the context of a permit held by a local governmental unit.
 - b. Local governments are permitted for their wastewater discharges. Along with septic systems, some regulatory expense for wastewater is expected and accepted by all individuals in the State. Such universal regulatory coverage and expense is not the case for urban stormwater permitting. Only some cities in Minnesota are required to have MS4 permits and that requirement is arbitrary. It is defined by inclusion in an Urbanized Area, the size of the population, and proximity to a special or impaired water.
4. Permit fees should only be used when a specific group benefits from the service more than the general public. The MS4 permitting program benefits the entire state by regulating the stormwater discharges from a limited number of cities. This can be seen in the analysis in several large-scale TMDL studies and reports in Minnesota. Therefore, the general populous of Minnesota benefits from this program and should support the cost of the program. This can best be accomplished through General Fund support for the MPCA’s MS4 permitting costs, instead of increased fees to MS4 permittees.
5. Increasing the MS4 permit fees will put many City Council members in difficult positions. The MPCA has consistently chosen to limit its funding and support for public education related to the MS4 program. Partly because of these decisions, the public is relatively unaware of the MS4 program. There is a low level of awareness and understanding of the need for the MS4 permitting program or the positive results of local implementation efforts. Because of this, there will be very little understanding or support from their constituents for the members of any City Council if they must vote on paying an increased MS4 permit fee.

For all these reasons, we urge the MPCA and the State to meaningfully limit any increases in MS4 permit fees.

Respectfully submitted,

Sharon Doucette
Chair, MCSC Steering Committee
Minnesota Cities Stormwater Coalition

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