

ENVIRONMENTAL REGULATION

Division of Water Quality

Notice of Adoption

New Jersey Pollutant Discharge Elimination System (NJPDES)

FY2006 Annual Fee Report and Assessment of Fees

Take notice that the Department of Environmental Protection (Department) hereby adopts the Fiscal Year 2006 (FY2006) New Jersey Pollutant Discharge Elimination System (NJPDES) Annual Fee Report and Assessment of Fees (Annual Fee Report). In accordance with N.J.A.C. 7:14A-3.1, publication of this notice marks the completion of the FY2006 budgeting and fee assessment process for the NJPDES permit program including the Stormwater Permitting Program.

Notice of the public hearing and opportunity to comment on the proposed FY2006 budget and fee schedule was provided in the New Jersey Register on November 7, 2005, at 37 N.J.R. 4321(b). Copies of a condensed version of the NJPDES Annual Fee Report and Assessment of Fees were mailed to all NJPDES permit holders and provided to other interested parties upon request. The full version of the Annual Report and Fee Schedule was made available on the Department's website at <http://www.nj.gov/dep/dwq/njpdessfees.html>.

The Department held a public hearing on the FY2006 NJPDES Annual Fee Report and Assessment of Fees on December 14, 2005 at the Department's offices at 401 East State Street, in Trenton, New Jersey. No persons attended the hearing. Written comments on the proposed NJPDES budget and the fee schedules were received from the individuals listed below.

Name – Affiliation

1. Thomas E. Hoversen – Comarco Products
2. Dennis W. Palmer – Landis Sewerage Authority

William F. Boehle, Chief of the Bureau of Permit Management, Division of Water Quality, served as the hearing officer at the December 14, 2005 public hearing. After reviewing the

record regarding the NJPDES Annual Fee Report and Fee Schedule, Mr. Boehle recommended that the Department adopt the FY2006 NJPDES Annual Fee Report and Fee Schedule.

The comments submitted are available for inspection by contacting the Department as follows:

William F. Boehle, Chief
Bureau of Permit Management
Division of Water Quality
PO Box 029
Trenton, New Jersey 08625

As discussed in the NJPDES Annual Report and Fee Schedule, the Department used the existing fee assessment methodology established at N.J.A.C. 7:14A-3.1 in calculating permit fees for FY2006. During the public comment period, a number of permittees asked questions concerning their individual environmental impact calculations, fee assessments, permit classifications and/or permit status. In response to these questions, the Department verified the environmental impact calculations and made adjustments, if necessary, based on the updated information. The Department addressed individual questions and explained the basis for the assessments directly to the inquiring permittees. One Municipal Discharge to Surface Water (DSW) permit was removed from the fee schedule because the discharge had ceased and the permit was no longer needed and had been revoked. The resulting adjustment to the rate for the Municipal DSW category because of this revisions is minor and resulted in an average increase of \$109.00 to the permit fees for this category, raising the average fee to \$24,578. Similarly, three Industrial Discharge to Surface Water (DSW) permits were removed from the fee schedule because the permits were no longer needed and had been revoked. One new Industrial DSW permit was added. The resulting adjustment to the rate for the Industrial DSW category because of all of these revisions was minor and resulted in an average increase of \$60.00 to the permit fees for this category, raising the average fee to \$11,130. The environmental value for one Significant Indirect User (SIU) permit was recalculated to account for corrected reporting data. The resulting adjustment to the rate for the SIU category because of this revision was minor and the fees for the remaining permittees in this category remained essentially unchanged. One Land

Application of Residuals permit was revoked. The resulting reduction in the fixed fees decreased the total amount billed for this category by \$750.00. One new Discharge to Groundwater (DGW) permit was added and four were revoked. The subsequent adjustment to the rate resulted in a \$8.00 average increase in permit fees for this category with an average permit fee of \$2,148.

Based on the above noted revisions, the Department has recalculated the proposed rates and assessments for the Municipal Surface Water, Industrial Surface Water, SIU Permit, Land Application of Residuals, and Municipal/Industrial Ground Water categories. The final rates and the permit category amounts to be billed for FY2006 are as follows:

<u>Category</u>	Total			
	<u>Environmental</u>	<u>Impact</u>	<u>Proposed Rate</u>	<u>Final Rate</u>
Municipal Surface Water	50,009.42	108.1180	108.2513	\$5,530,000
Industrial Surface Water	2,371,108.02	3.7942	3.8447	\$4,630,000
Pretreatment (SIU Permits)	19,970.56	4.8821	4.8822	\$479,000
Municipal/Industrial Ground Water	191.30	3624.7192	3650.7469	\$1,920,000
Land Application of Residuals	-	-	-	\$205,500
Operating Landfills	157,685.79	2.4794	2.4794	\$450,000
Total:				\$13,214,500

For the Stormwater Permitting Program the fixed fees and the amount to be billed for FY2006 are as follows. The only changes were the addition of 15 new permits and the deletion of six facilities due to permit revocations.

<u>Discharge Category</u>	<u>Fee</u>	<u>Amount Billed</u>
Basic Industrial Stormwater General Permit	\$750	\$1,575,750
Stormwater (Individual Permit)	\$3,550	\$646,100
Scrap Metal Stormwater General Permit	\$2,000	\$466,000
Concrete Products Stormwater General Permit	\$2,000	\$240,000
Newark Airport Stormwater General Permit	\$2,000	\$78,000
Hot Mix Asphalt Stormwater General Permit	\$2,000	\$54,000
CAFO Stormwater General Permit	\$2,000	\$12,000
MSRP – Tier B General Permit	\$500	\$50,500

MSRP – Tier A General Permit (0 - 1000)	\$600	\$5,400
MSRP – Tier A General Permit (1001 - 5000)	\$1,050	\$111,300
MSRP – Tier A General Permit (5001 - 10000)	\$2,000	\$230,000
MSRP – Tier A General Permit (10001 – 15000)	\$3,000	\$207,000
MSRP – Tier A General Permit (15001 - 20000)	\$4,050	\$178,200
MSRP – Tier A General Permit (20001 - 25000)	\$5,250	\$157,500
MSRP – Tier A General Permit (25000 +)	\$9,000	\$792,000
MSRP – Public Complex General Permit (1000 - 2999)	\$900	\$38,700
MSRP – Public Complex General Permit (3000 - 5999)	\$1,500	\$19,500
MSRP – Public Complex General Permit (6000 - 8999)	\$2,600	\$18,200
MSRP – Public Complex General Permit (9000 +)	\$3,600	\$61,200
MSRP – Highway Agency General Permit (0-9)	\$550	\$3,300
MSRP – Highway Agency General Permit (10-199)	\$2,450	\$22,050
MSRP – Highway Agency General Permit (200-399)	\$5,100	\$66,300
MSRP – Highway Agency General Permit (400 +)	\$9,800	\$49,000
Total FY2006 Stormwater Billing:		\$5,082,000

Summary of Public Comments and Agency Responses:

1. COMMENT: Comarco Products contends that the \$750.00 minimum fee for its stormwater general permit that the State of New Jersey is assessing is not a fee, but is a tax. Comarco is opposed to and resents paying this permit fee saying, “it is basically a tax on rain” and could be a possible hindrance to the stimulation of jobs and industry in the State. Comarco stated that it believes the Stormwater Permitting Program is a “joke.”

RESPONSE: The NJPDES annual permit fee is not a tax. The NJPDES Stormwater Permitting Program is a Federally-mandated program designed to protect our waterways from the impacts of stormwater-borne pollution. This program is administered by states or by the U.S. Environmental Protection Agency throughout the nation. Industrial facilities may inadvertently allow pollutants to enter our waterways when rain or snow come into contact with industrial activities that take place outdoors. This contaminated stormwater can then enter the State’s streams, lakes, and the ocean, via storm sewer systems. Since there is no treatment of stormwater runoff, the Department relies on individual facilities to remove or cover as much of

this industrial activity as possible, so as to eliminate or minimize the extent of stormwater-borne pollution.

The fees associated with the program are to support the administration of the program and are authorized by law. A minimum fee is assessed for all general permits. The fees are calculated as specified in N.J.A.C. 7:14A-3.1(a)9iii. The methodology takes into account the number of hours allocated for the administration of the permit, including permit development, issuance, monitoring, and data management. The minimum fee for the Basic Industrial Stormwater General Permit is one of the lowest permit fees assessed by the NJPDES program. All permittees subject to this general permit are assessed this fee.

If a permittee believes that its operations are not subject to the stormwater permitting program, it should contact the Department's Bureau of Nonpoint Pollution Control at 609-633-7021, for a determination. If the Department determines that a facility has no outdoor operations that expose raw materials or processes to stormwater runoff (such as permanent no exposure), a NJPDES permit would not be required for the stormwater discharges from the site. If a NJPDES permit were not required, no permit fee would be assessed.

2. COMMENT: The Landis Sewerage Authority states that from the FY2005 NJPDES fee hearing, it understood that the fee assessment and the methodology of calculating the fee for dischargers to groundwater would be undergoing a re-evaluation by the Department. Landis anticipated that for the next round of fees, that re-assessment may reduce the permit fees for dischargers to groundwater. The Authority is disappointed and encourages the Department to have such a re-evaluation in place for next year's budget cycle.

RESPONSE: The Department is undertaking the evaluation cited by the Authority, and is developing proposed rule amendments to implement a revised fee assessment methodology for dischargers to groundwater. The Department intends to propose these changes before the FY2007 billing cycle.