

ENVIRONMENTAL REGULATION
Division of Water Quality
Notice of Adoption
New Jersey Pollutant Discharge Elimination System (NJPDES)
FY2008 Annual Fee Report and Assessment of Fees

Take notice that the Department of Environmental Protection (Department) hereby adopts the Fiscal Year 2008 (FY2008) 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 FY2008 budgeting and fee assessment process for the NJPDES permit program.

Notice of the public hearing and opportunity to comment on the proposed FY2008 budget and fee schedule was provided in the New Jersey Register on November 5, 2007, at 39 N.J.R. 4867(b). Copies of a condensed version of the NJPDES Annual Fee Report were mailed to all NJPDES permit holders and provided to other interested parties upon request. The full version of the Annual Fee Report 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 FY2008 NJPDES Annual Fee Report on December 5, 2007 at the Department's offices at 401 East State Street, in Trenton, New Jersey. There were no attendees at the hearing. Written comments on the proposed NJPDES budget and the fee schedules were received from the individuals listed below.

Name and Affiliation

1. Gene Waldman, President, Duck Island Terminal, Inc.
2. Jeffrey A Miller, Environmental Engineer, White Castle Management Company.
3. Christopher J Guida, Executive Director, Warren County (Pequest River) Municipal Utilities Authority.

Peter Patterson, Acting Chief of the Bureau of Permit Management, Division of Water Quality, served as the hearing officer at the December 5, 2007 public hearing. After reviewing the record regarding the NJPDES Annual Fee Report, Mr. Patterson recommended that the Department adopt the FY2008 NJPDES Annual Fee Report.

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

Peter Patterson, Acting 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 FY2008. During the public comment period, several permittees made phone or facsimile inquiries concerning their individual fee assessments, permit classifications or permit status. The

Department addressed such facility specific questions and explained the basis for the assessments directly to the inquiring permittees and made adjustments where necessary. There were no changes to the Municipal Discharge to Surface Water (DSW) fee schedule. Four new Industrial DSW permits were added to the fee schedule and fifteen were removed. Of those that were removed, four permits were reissued as general permit authorizations; nine were revoked due to facility closures; and two short-term remediation permit authorizations were terminated because the remediation activity had been completed. The environmental values for two permittees were recalculated based on corrected DMR data submitted. The adjustment to the rate for the Industrial DSW category because of these revisions resulted in an average increase of \$356.00 to the permit fees raising the average fee to \$14,561. Five Significant Indirect User (SIU) permits were added. These included one emergency permit and four new permits issued to facilities previously permitted by delegated local authorities. The adjustment to the rate for the SIU category because of these additions resulted in an average fee reduction of \$469.00, with an average fee of \$6,760. There were no changes to the Residuals fee schedule. Sixteen new Discharge to Groundwater (DGW) permits were added due to new permits being issued. One individual permit was reissued as a general permit authorization, and one permit was revoked because of facility closure. The environmental value for one permittee was recalculated based on corrected DMR data submitted. The subsequent adjustment to the rate resulted in a \$38.00 average decrease in permit fees for this category, with an average permit fee of \$2,445. One Operating Landfill permit was added. The adjustment to the rate for the Operating Landfill category because of this addition resulted in a \$996.00 average decrease in permit fees for this category, and an average permit fee of \$22,917.

Based on the above noted revisions, the Department has recalculated the proposed rates and assessments for the Industrial Surface Water, Pretreatment (SIU Permits), Municipal/Industrial Ground Water, and Operating Landfill categories. The final rates and the permit category amounts to be billed for FY2008 are as follows:

<u>Category</u>	<u>Total Environmental Impact</u>	<u>Proposed Rate</u>	<u>Final Rate</u>	<u>Amount Billed</u>
Municipal Surface Water	43,429.82	150.9705	150.9705	\$6,731,318
Industrial Surface Water	1,681,887.31	4.7628	5.0124	\$5,737,125
Pretreatment (SIU Permits)	28,388.11	3.9605	2.9459	\$520,482
Municipal/Industrial Ground Water	165.41	5300.9344	5151.0447	\$2,269,058
Land Application of Residuals	-	-	-	\$190,050
Operating Landfills	176,647.77	2.6496	2.5876	\$550,000
Total:				\$15,998,033

For the Stormwater Permitting Program, the fixed fees and the amount to be billed for FY2008 are as follows. The only amendments were the addition of 25 permits due to new permits being issued, and the deletion of 46 facilities due to permit revocations.

<u>Discharge Category</u>	<u>Fee</u>	<u>Amount Billed</u>
Basic Industrial Stormwater General Permit	\$800	\$1,768,000
Stormwater (Individual Permit)	\$4,100	\$725,700

Scrap Metal Stormwater General Permit	\$2,300	\$549,700
Concrete Products Stormwater General Permit	\$2,300	\$280,600
Newark Airport Stormwater General Permit	\$2,300	\$87,400
Hot Mix Asphalt Stormwater General Permit	\$2,300	\$64,400
CAFO Stormwater General Permit	\$2,300	\$6,900
Mining & Quarrying General Permit	\$2,300	\$161,000
MSRP – Tier B General Permit	\$500	\$51,000
MSRP – Tier A General Permit (0 - 1000)	\$600	\$5,400
MSRP – Tier A General Permit (1001 - 5000)	\$1,050	\$109,200
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	\$774,000
MSRP – Public Complex General Permit (1000 - 2999)	\$900	\$35,100
MSRP – Public Complex General Permit (3000 - 5999)	\$1,500	\$19,500
MSRP – Public Complex General Permit (6000 - 8999)	\$2,600	\$15,600
MSRP – Public Complex General Permit (9000 +)	\$3,600	\$57,600
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 FY2008 Stormwater Billing:		\$5,624,450

Summary of Public Comments and Agency Responses:

1. COMMENT: Duck Island Terminal, Inc., commented that an 11 percent salary increase presented in the Annual Fee Report appears extra ordinary and out of line with industry standards. No company in the State could increase its margins by this same amount and remain competitive. Additionally, the commenter requested a detailed explanation of the costs associated with running the Department and a rationale for increase in salaries.
2. COMMENT: White Castle Management Company commented that the budget and salary increase presented in the Annual Fee Report are excessive. Most NJPDES permit holders are industries, and the increased costs negatively impact industry's perception of New Jersey's business climate. The commenter requested that the Department review the Annual Fee Report and roll back the fees to something more manageable for industry.
3. COMMENT: Warren County (Pequest River) Municipal Utilities Authority commented that the proposed program cost increase of \$2.5 million over last year amounts to an 11.2 percent increase, which is three times the cost of living for this time period. Restraint with regard to spending is needed, and the public sector needs to do more with less, in order to help reign in escalating costs of government.

RESPONSE TO COMMENTS 1 THROUGH 3:

The FY2008 total water pollution control budget rose approximately 11 percent. However, the FY2008 NJPDES budget, which is a part of the water pollution budget and is to be paid by

permit fees, rose \$1.8 million or 9 percent from FY2007 levels. This includes a \$0.39 million increase for operational costs.

Salaries and operational costs are the two major items associated with administering the NJPDES program. Salary costs are for staff performing permitting and enforcement activities. As detailed in the Annual Fee Report, permitting activities include developing, issuing, monitoring and administering NJPDES permits. Enforcement activities include inspections and follow up activities to assure compliance with permit provisions.

Operational costs include routine costs for office supplies, printers, phones, postage, vehicle rental and maintenance, legal advertising and professional services. Two other major operational costs include legal assistance provided by the Department of Law and Public Safety, the Office of Administrative Law, and computer system operational support from the Office of Information Technology.

The salary figure of \$70,695 presented in the FY2008 Fee Report is the average of the salaries of all NJPDES personnel. The average salary figure of \$59,500 used in FY2007 Fee Report was miscalculated and resulted in an under estimation. The FY2007 average salary should have been \$67,500. If the correct salary figure for FY2007 had been used, the difference between the FY2007 and FY2008 salaries would have been \$3,195, or a 4.7 percent increase. The Department considers this increase to be within reason, as it includes salary increases due to promotions, union negotiated increases and managerial raises.

As the commenter suggests, the Department is striving hard “to do more with less.” The staff assigned to work in the NJPDES program has decreased over the last three fiscal years. In FY2006 there were 193.5 full time equivalents (FTEs) assigned to the NJPDES program. In FY2007 there were 191.5 FTEs. For FY2008 there are 177.45 FTEs assigned. Although the number of FTEs has decreased over time, the seniority of the employees has increased. Employees who have been with the Department for a longer period of time generally receive higher salaries than employees with fewer years’ experience.

Additionally, it should be noted that the increases in the FY2008 NJPDES budget did not necessarily result in fee increases for all permittees. For example, permittees who pay only a minimum fee (such as Duck Island Terminal, Inc. and White Castle Management Company) will not see a fee increase in FY2008 because minimum fees have not been increased.