

REGULATORY FEE RECOMMENDATION REPORT TO THE ENVIRONMENTAL QUALITY BOARD

NPDES Permit and Annual Fees Chapter 92a. National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance

BACKGROUND:

The Department of Environmental Protection (Department), Bureau of Clean Water (BCW) is responsible for the administration of the National Pollutant Discharge Elimination System (NPDES) permitting and compliance monitoring activities under 25 Pa. Code Chapter 92a. The Department implements this program pursuant to a Memorandum of Agreement with the U.S. Environmental Protection Agency (EPA) for point source discharges from sewage, industrial waste and municipal and industrial stormwater facilities and other activities including the application of pesticides. The NPDES program authority comes from the federal Clean Water Act (Federal Act) (33 U.S.C.A. §§ 1251 – 1387) and the Clean Streams Law (35 P.S. §§ 691.1 – 691.1001). Chapter 92a was published as final rulemaking in the *Pennsylvania Bulletin* (40 Pa.B 5767) on October 9, 2010 and replaced the prior NPDES regulations, Chapter 92. Section 691.6 of the Clean Streams Law allows the Department to charge filing fees for applications by regulation, provided that the fee is “reasonable.” The Clean Streams Law also allows for charging and collecting fees for permits issued (35 P.S. § 691.6).

The Department updated the fee schedule for NPDES permit applications through Chapter 92a in 2010 (see 25 Pa. Code § 92a.26). The Department also introduced annual fees in Chapter 92a for individual NPDES permits (see 25 Pa. Code § 92a.62). The Department began its Chapter 92a annual invoicing and fee collection program in December 2010.

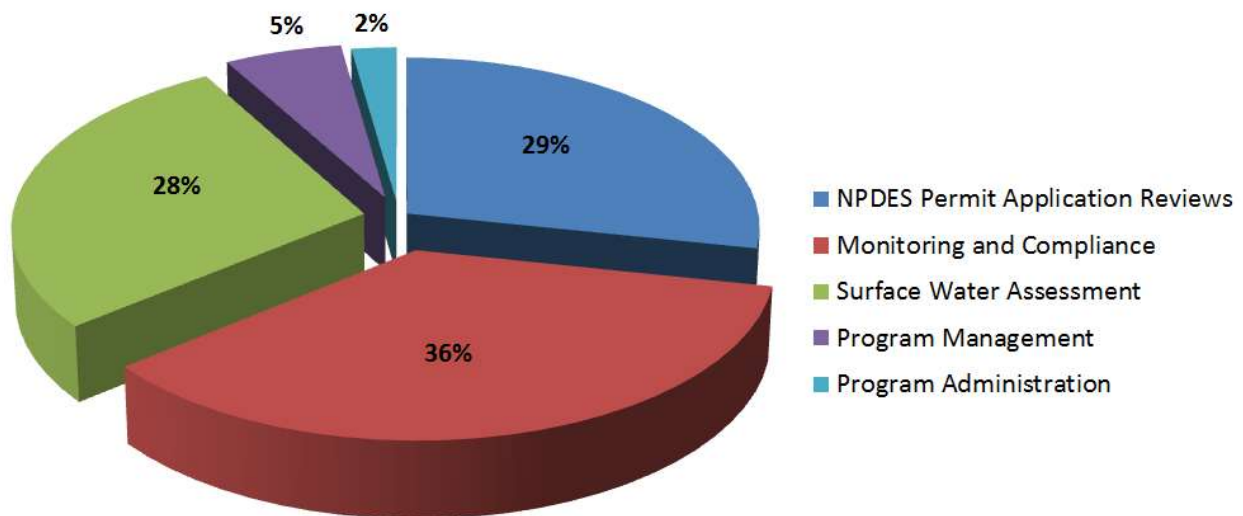
Every three years the Department is required to provide the Environmental Quality Board (EQB) with a review of the adequacy of the fees and a recommendation regarding regulatory changes necessary to address any disparity between program costs and income generated (see 25 Pa. Code §§ 92a.26(h) and 92a.62(e)).

On February 18, 2014, the Department’s Office of Water Management presented a Chapter 92a fee analysis to the EQB. The analysis highlighted that despite the fee increase in 2010, revenue continues to fall well short of expenses, and nearly \$10 million per year is being drawn from the Department’s General Fund to carry out the following program activities administered by the Department’s BCW and implemented by DEP’s Clean Water Program in six regional offices (see **Figure 1**):

- 1. NPDES Permit Application Reviews** – On an annual average basis, the Department receives approximately 2,150 NPDES applications for new permits, reissuance of existing permits, amendments to permits and permit transfers for sewage, industrial waste, industrial stormwater, municipal stormwater, pesticide and agricultural facilities and activities. The universe of such facilities in Pennsylvania with NPDES permit coverage is over 10,000, which puts the Department in the top five in the nation in terms of number of permitted facilities. Twenty nine percent (29%) of NPDES program expenses are related to application reviews.
- 2. Surface Water Assessment** – BCW and Clean Water Program biologists and other staff conduct chemical and biological monitoring of surface waters throughout the state and develop Total Maximum Daily Loads (TMDLs) for impaired surface waters. In addition, the program contracts with USGS for Water Quality Network (WQN) station chemical monitoring. Twenty eight percent (28%) of NPDES program costs are for surface water assessment.

3. **NPDES Monitoring and Compliance** – Clean Water Program monitoring and compliance staff conduct inspections of permitted facilities to verify compliance with the permit. The Department must meet annual inspection goals established with the concurrence of EPA. On an annual average basis, the Department conducts approximately 4,500 inspections, including in-office administrative reviews and on-site field inspections. Thirty six percent (36%) of NPDES program expenses are for monitoring and compliance.
4. **Clean Water Program Administration** – Other staff who do not directly prepare NPDES permits or inspect facilities have roles in implementing the program; these roles include management and supervision of program activities and administration (clerical, fee processing, data management, etc.). Two percent (2%) of NPDES program costs go toward administration.
5. **Central Office Management** – BCW manages grants distributed by EPA for implementation of the delegated NPDES program, develops guidance and policy and provides training for the Clean Water Program and regulated community, and manages NPDES program data. Five percent (5%) of NPDES program expenses are related to management.

Figure 1. Distribution of Funded Activities in NPDES Program.



The analysis also highlighted that the Department’s NPDES fees, in terms of cost per facility, are generally 50% - 90% lower than surrounding states and states with similar numbers of NPDES-permitted facilities. In New Jersey for example, NPDES fees account for over 50% of its NPDES program budget as opposed to 17% in Pennsylvania.

Fee Objective, Title and Rate

The fee schedule established in Chapter 92a was intended to cover the program costs not covered by federal funding or the state General Fund. NPDES fees are deposited into the Clean Water Fund, a special restricted revenue account in the General Fund administered by the Department and for which funds are appropriated to the Department for purposes authorized in the Clean Streams Law. **Table 1** below provides a summary of current individual NPDES permit application fees and **Table 2** below summarizes the annual fees for facilities covered by individual NPDES permits.

Table 1. Summary of Current NPDES Permit Application Fees in 25 Pa. Code § 92a.26.

Type of Facility	Fee Amount
Single Residence Sewage Treatment Plant (SRSTP)	\$100 for new, \$100 for reissuance
Small Flow Treatment Facility (SFTF)	\$250 for new, \$250 for reissuance
Minor Sewage Facility < 0.05 million gallons/day (MGD)	\$500 for new, \$250 for reissuance
Minor Sewage Facility ≥ 0.05 MGD < 1 MGD	\$1,000 for new, \$500 for reissuance
Minor Sewage Facility with Combined Sewer Overflow (CSO)	\$1,500 for new, \$750 for reissuance
Major Sewage Facility ≥ 1 MGD < 5 MGD	\$2,500 for new, \$1,250 for reissuance
Major Sewage Facility ≥ 5 MGD	\$5,000 for new, \$2,500 for reissuance
Major Sewage Facility with CSO	\$10,000 for new, \$5,000 for reissuance
Minor Industrial Waste (IW) Facility Not Covered by an Effluent Limitation Guideline (ELG)	\$1,000 for new, \$500 for reissuance
Minor IW Facility Covered by an ELG	\$3,000 for new, \$1,500 for reissuance
Major IW Facility < 250 MGD	\$10,000 for new, \$5,000 for reissuance
Major IW Facility ≥ 250 MGD	\$50,000 for new, \$25,000 for reissuance
Mining Activity	\$1,000 for new, \$500 for reissuance
Stormwater	\$2,000 for new, \$1,000 for reissuance
Concentrated Animal Feeding Operation (CAFO)	\$1,500 for new, \$750 for reissuance
Concentrated Aquatic Animal Production (CAAP) Facility	\$1,500 for new, \$750 for reissuance
Municipal Separate Storm Sewer System (MS4)	\$5,000 for new, \$2,500 for reissuance
Type of Permit	Fee Amount
Transfers for SRSTP	\$50
Transfers for SFTF	\$100
Transfers for Other Domestic Wastewater (Sewage)	\$200
Transfers for IW	\$500
DEP-Initiated Amendments, All Facilities	\$0
Minor Amendments, All Facilities	\$200
Major Amendments, All Facilities	Same as reissuance fee
Notice of Intent (NOI) for Facilities Covered by General Permits	Not to exceed \$2,500 except as provided in Chapter 102.

Table 2. Summary of Current Annual Fees in 25 Pa. Code § 92a.62.

Type of Facility	Fee Amount
SRSTP	\$0
SFTF	\$0
Minor Sewage Facility < 0.05 MGD	\$250
Minor Sewage Facility ≥ 0.05 MGD < 1 MGD	\$500
Minor Sewage Facility with CSO	\$750
Major Sewage Facility ≥ 1 MGD < 5 MGD	\$1,250
Major Sewage Facility ≥ 5 MGD	\$2,500
Major Sewage Facility with CSO	\$5,000
Minor IW Facility Not Covered by an ELG	\$500
Minor IW Facility Covered by an ELG	\$1,500
Major IW Facility < 250 MGD	\$5,000
Major IW Facility ≥ 250 MGD	\$25,000
Mining Activity	\$0
Stormwater	\$1,000
CAFO	\$0
CAAP Facility	\$0
MS4	\$500

FEE COLLECTION:

Table 3 below provides a summary of revenues collected in the Clean Water Fund for NPDES application and annual fees during the past five fiscal years (FY). Note: fees were higher than usual in FY 2012-2013 because of the receipt of nearly 1,000 municipal separate storm sewer system (MS4) permit renewal applications.

Table 3. Summary of Chapter 92a Revenues from Fees

FY2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014	FY 2014-2015
\$2,350,449	\$3,611,175	\$4,147,683	\$3,473,825	\$3,341,925

PROGRAM COSTS:

The Department has undertaken several initiatives in the past few years to streamline program implementation in an effort to minimize costs and maximize the effective use of existing staff resources. These initiatives include:

- Standard Operating Procedures (SOPs) to ensure consistent and efficient use of permit application review resources statewide;

- Electronic management of permit documents;
- Automated notices of upcoming permit renewal application due dates to the regulated community; and
- Electronic management of monitoring data submitted by the regulated community, with automated compliance assessment so that staff do not need to manually evaluate compliance.

These efforts are being undertaken in the face of continuous increases in workload for the statewide Clean Water Program, as new initiatives and expectations are handed down from EPA.

Table 4 below provides a summary of program expenses for the past five fiscal years. The budget and expenses for the EPA Section 106 Water Pollution Control, 106 Supplemental, and the 604b Water Planning Grants were used to calculate these costs. Only the Section 106 Water Pollution Control Grant has a required match. As indicated in Table 4, this grant is overmatched every year. The required level of state funding for this grant for this same timeframe was approximately \$5 million. The amount received and spent from federal grants has remained steady and are expected to do so in the near future. The state's contribution is expected to increase a minimum of 2% per year due to increases in salaries, laboratory costs, and supply costs.

Table 4. NPDES Program Expenses

FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014	FY 2014-2015
\$17,515,972	\$18,713,590	\$19,120,015	\$19,369,439	\$19,623,852

It is noted that the figures above do not necessarily represent the full costs for administering the program. BCW estimates a total of 194 staff, including management, are associated with the implementation of this program at an approximate cost of \$28.1 million per year. Certain expenses, such as general program oversight, were not included in the cost estimates in Table 4, since these are not directly associated with the implementation of the Section 106 Water Pollution Control Grant or the required match.

TREND ANALYSIS:

Table 5 below provides revenue/expense ratios for the previous five fiscal years. The 92a fee revenue from Table 3 is added to the federal monies the Department receives annually under EPA grants. Currently, fee revenue from the Chapter 91 and 92a programs only cover approximately \$3.4 million of program expenditures, or 17% of the cost to administer the NPDES Program. Federal funding provides an additional one-third coverage of program costs.

Table 5. Revenue/Expense Ratios for the NPDES Program

	FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014	FY 2014-2015
92a Fee Revenue	\$2,350,449	\$3,611,175	\$4,147,683	\$3,473,825	\$3,341,925
Federal Funds	\$7,414,253	\$7,314,430	\$6,648,800	\$6,648,800	\$6,648,800
Total Revenue	\$9,764,702	\$10,925,605	\$10,796,483	\$10,122,625	\$9,990,725
Expenses	\$17,515,972	\$18,713,590	\$19,120,015	\$19,369,439	\$19,623,852
Ratios	0.56	0.58	0.56	0.52	0.51

The revenue/expense ratios indicate that the current fee schedule established in 25 Pa. Code Chapter 92a has not covered NPDES program costs.

PROBLEM STATEMENT:

Based on the current funding structure, the Department's ability to adequately comply with federal and state environmental requirements relating to the NPDES program is continually strained due to a lack of program solvency. Without adequate funding for all required aspects of the NPDES program, public health may suffer, and environmental gains previously made may be lost, due to a reduced capacity to conduct compliance and enforcement efforts. Additionally, the Department's ability to efficiently and timely process permit applications, meet its obligations under the Clean Streams Law, satisfy increasing Federal requirements, and promptly serve the public in areas including but not limited to municipal stormwater (MS4s) and agriculture are all affected by this insufficient funding.

The Department is using the General Fund to meet half of its existing funding obligations, as noted above. Given the potential fluctuations in appropriations by the legislature, a more stable and sustainable funding source is desired.

RECOMMENDATION:

While achieving a self-funded NPDES program is desired in the future, increased NPDES program staff is considered to be the highest priority given the activities that are not currently able to be completed by the Department to serve its mission. These include adequate inspection and enforcement and activities necessary to carry out the Department's Chesapeake Bay Restoration Strategy. Adding positions will also benefit the regulated community by efficiently improving permit application review timeliness. Proper levels of inspection and compliance efforts will also ensure continued public health protections and protection of Pennsylvania's scenic waterways, which are utilized by many Pennsylvanians and tourists for recreational activities.

The Department is seeking to generate sufficient funds between fee increases in Chapters 91 and 92a to restore 65 positions the Department has determined are necessary to implement its clean water objectives. The increase in revenue required is approximately \$9 million annually, determined as follows:

65 positions x \$139,900/position/year (the Department's Bureau of Fiscal Management estimate for average full-time equivalent employee including benefits and indirects) = \$9,093,500/year.

To generate this new revenue, the Department is proposing an overall fee increase of approximately \$8 million per year for the Clean Water Fund from Chapter 92a NPDES fees. This increase will be phased in over the course of two permit terms (10 years). The remaining revenue increase is proposed through modifications to the fee schedule in Chapter 91.

While most of these fee increases will cover the cost of new positions, the fees will also account for an increasing proportion of the Department's NPDES program costs. Current fees only cover 17% of the annual \$20 million direct program costs. The addition of these needed positions will increase program expenses to approximately \$29 million; however, the new fees will cover 39% of these total projected program costs (see **Table 6**).

Table 6. Existing and Future 92a Fee Revenue Contribution to NPDES Program Expenses

	Existing	Future
92a Fee Revenue	\$3,400,000	\$11,400,000
Federal Funds	\$6,648,800	\$6,648,800
Total Revenue	\$10,048,800	\$18,048,800
Expenses	\$19,623,852	\$29,000,000
Revenue / Expense Ratio	0.51	0.51
92a Fee Revenue Contribution	17%	39%

Table 7 below presents the proposed fee increases for the various types of NPDES permits and permitted facilities. The statutory authority for the proposed fee increase is section 6 of The Clean Streams Law, 35 P.S. § 691.6, and section 1920-A of The Administrative Code of 1929, 71. P.S. § 510-20).

Attachment A provides recommended changes to the language of §§ 92a.26 and 92a.62; a summary of these changes is as follows:

- Establishment of a fee schedule consistent with **Table 7**, where the full fee increase would not become effective until 5 years following publication of the regulation. These fee increases are reasonable in comparison to other states. For example, as shown in **Figure 1**, a sewage treatment facility designed for a discharge of one million gallons per day (MGD) with an individual NPDES permit currently pays \$6,250 over a 5-year period in Pennsylvania. That same facility, if located in the other states shown in **Figure 2**, would pay between \$37,500 and \$75,000 over a 5-year period. The Department's proposed fee increase to \$18,750 over a 5-year period would still be just 25% - 50% of what is paid in these other states.
- Establishment of a new annual fee for individual NPDES permits for stormwater associated with construction activity. Individual NPDES permit application fees for stormwater associated with construction activity are established in 25 Pa. Code § 102.6(b). These application fees would remain in that regulation, but the proposed annual fee for this type of permit would be specified in 25 Pa. Code § 92a.62.
- Elimination of the existing \$2,500 cap on General Permit NOI fees. In order to raise sufficient revenue to cover 65 positions, the cap will need to be increased or eliminated. In issuing statewide general permits, the Department has always made the NOI fee less than the application fee for an individual permit and would continue this practice.
- Inclusion of language that authorizes an adjustment to the fees based on the change in the consumer price index (CPI) published by the U.S. Department of Labor, Bureau of Labor Statistics, without the need for approval by the EQB. Such changes would be published in the *Pennsylvania Bulletin*. Where greater increases are sought, EQB approval would be necessary.
- Flexibility for the Department to waive application and NOI reissuance fees, through notice in application and NOI instructions, so that the Department may, if desired, charge annual fees only. Doing so will allow the Department to collect 3-5% more in fees due to timing issues.
- Removal of language concerning annual fee due dates on the anniversary of the effective date of the permit; BCW would like the option to consider improvements in the fee collection process by establishing specific calendar dates for due dates.
- Modification to the language that fees must be payable to the Clean Water Fund; the Department's Bureau of Fiscal Management has advised that these fees should be payable to the Commonwealth of Pennsylvania. Fees are routed into the Clean Water Fund through the Commonwealth's SAP accounting system.

- The addition of pesticides as a fee category; the Department began processing NPDES permit applications for certain pesticide application activities following promulgation of Chapter 92a in 2010.
- Clarification that fees for other types of applications that affect General Permit coverage (amendments to and transfers of coverage) will be established in the General Permit or NOI Instructions. In addition, clarification that fees for waivers and exemptions will be established in the waiver and exemption instructions or NOI Instructions.

Figure 2: Existing 5-Year NPDES Fee Total for 1 MGD Sewage Discharger, Selected States.

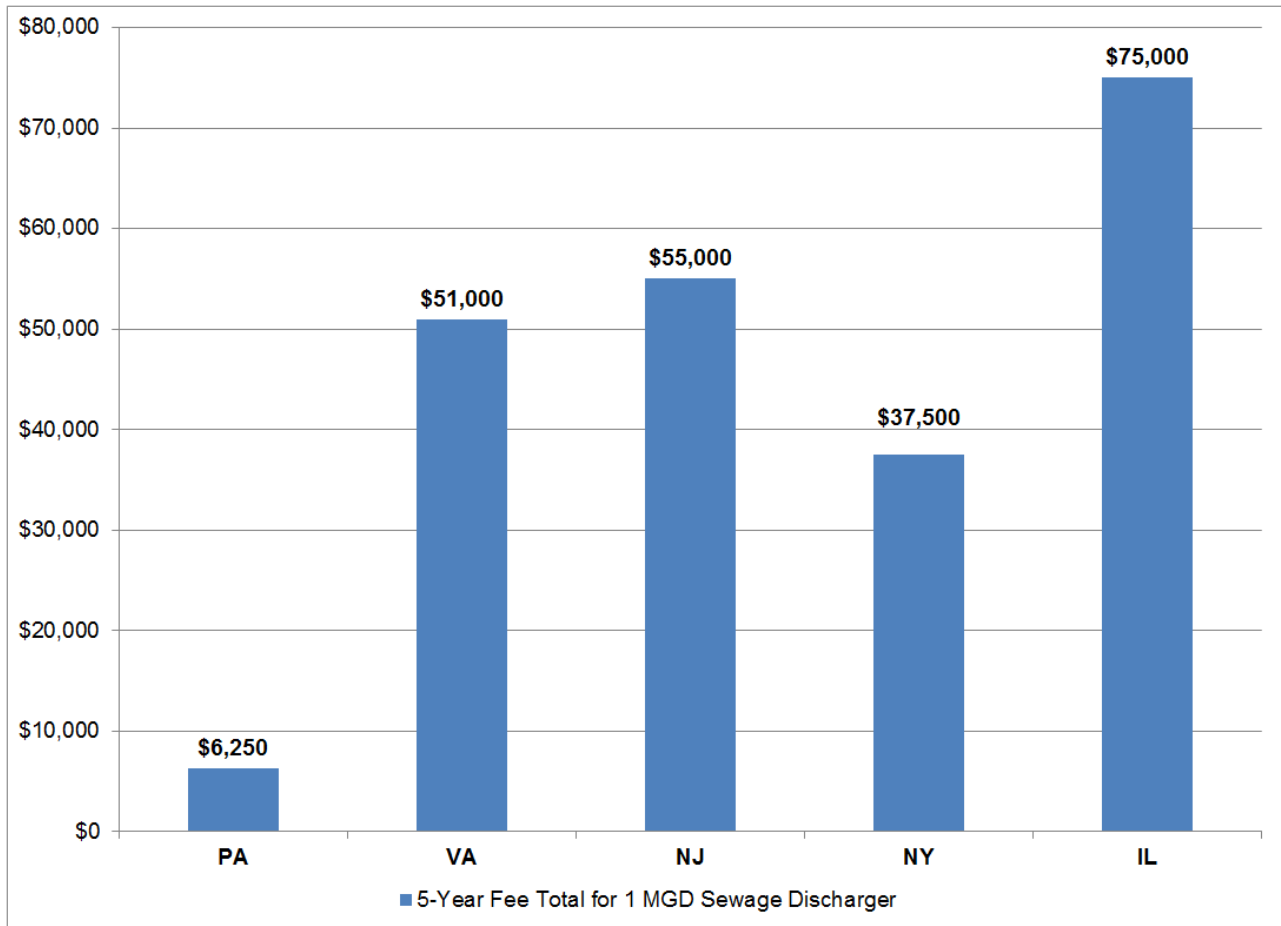


Table 7. 25 Pa. Code §§ 92a.26 and 92a.62 Existing and Proposed NPDES Fees.

Category	Application Type	No. Expected Over 5 Years	Existing Fee	Proposed Fee - Effective Date	Proposed Fee - 5 Years
SRSTP - Individual Permit	New Permit	50	\$100	\$200	\$200
	Reissuance	429	\$100	\$100	\$100
	Minor Amendment	1	\$200	\$50	\$50
	Major Amendment	5	\$100	\$100	\$100
	Transfer	40	\$50	\$50	\$50
	Annual Fee	1,716	\$0	\$0	\$0
SFTF - Individual Permit	New Permit	20	\$250	\$500	\$1,000
	Reissuance	204	\$250	\$250	\$500
	Minor Amendment	0	\$200	\$100	\$100
	Major Amendment	5	\$250	\$250	\$250
	Transfer	10	\$100	\$100	\$100
	Annual Fee	816	\$0	\$250	\$500
Minor Sewage Facility < 0.05 MGD – Individual Permit	New Permit	20	\$500	\$1,000	\$1,500
	Reissuance	1064	\$250	\$500	\$750
	Minor Amendment	30	\$200	\$200	\$200
	Major Amendment	10	\$250	\$500	\$750
	Transfer	20	\$200	\$200	\$200
	Annual Fee	4,256	\$250	\$500	\$750
Minor Sewage >= 0.05 MGD and < 1.0 MGD – Individual Permit	New Permit	20	\$1,000	\$1,500	\$2,000
	Reissuance	757	\$500	\$750	\$1,000
	Minor Amendment	30	\$200	\$200	\$200
	Major Amendment	10	\$500	\$750	\$1,000
	Transfer	10	\$200	\$200	\$200
	Annual Fee	3,028	\$500	\$750	\$1,000
Minor Sewage with CSO – Individual Permit	New Permit	0	\$1,500	\$2,500	\$5,000
	Reissuance	30	\$750	\$1,250	\$2,500
	Minor Amendment	5	\$200	\$200	\$200
	Major Amendment	1	\$750	\$1,250	\$2,500
	Transfer	1	\$200	\$200	\$200
	Annual Fee	120	\$750	\$1,250	\$2,500

Category	Application Type	No. Expected Over 5 Years	Existing Fee	Proposed Fee - Effective Date	Proposed Fee - 5 Years
Major Sewage >= 1.0 MGD and < 5.0 MGD – Individual Permit	New Permit	3	\$2,500	\$5,000	\$7,500
	Reissuance	186	\$1,250	\$2,500	\$3,750
	Minor Amendment	30	\$200	\$200	\$200
	Major Amendment	15	\$1,250	\$2,500	\$3,750
	Transfer	5	\$200	\$200	\$200
	Annual Fee	744	\$1,250	\$2,500	\$3,750
Major Sewage >= 5.0 MGD – Individual Permit	New Permit	0	\$5,000	\$7,500	\$10,000
	Reissuance	53	\$2,500	\$3,750	\$5,000
	Minor Amendment	7	\$200	\$200	\$200
	Major Amendment	10	\$2,500	\$3,750	\$5,000
	Transfer	3	\$200	\$200	\$200
	Annual Fee	212	\$2,500	\$3,750	\$5,000
Major Sewage with CSO – Individual Permit	New Permit	0	\$10,000	\$12,500	\$15,000
	Reissuance	73	\$5,000	\$6,250	\$7,500
	Minor Amendment	5	\$200	\$200	\$200
	Major Amendment	3	\$5,000	\$6,250	\$7,500
	Transfer	1	\$200	\$200	\$200
	Annual Fee	292	\$5,000	\$6,250	\$7,500
Minor IW Facility not covered by ELG – Individual Permit	New Permit	30	\$1,000	\$2,000	\$4,000
	Reissuance	527	\$500	\$1,000	\$2,000
	Minor Amendment	15	\$200	\$200	\$200
	Major Amendment	15	\$500	\$1,000	\$2,000
	Transfer	20	\$500	\$500	\$500
	Annual Fee	2,108	\$500	\$1,000	\$2,000
Minor IW Facility covered by ELG – Individual Permit	New Permit	5	\$3,000	\$5,000	\$7,500
	Reissuance	343	\$1,500	\$2,500	\$3,750
	Minor Amendment	10	\$200	\$200	\$200
	Major Amendment	10	\$1,500	\$2,500	\$3,750
	Transfer	10	\$500	\$500	\$500
	Annual Fee	1,372	\$1,500	\$2,500	\$3,750
Major IW Facility < 250 MGD – Individual Permit	New Permit	1	\$10,000	\$12,500	\$15,000
	Reissuance	89	\$5,000	\$6,250	\$7,500
	Minor Amendment	10	\$200	\$200	\$200
	Major Amendment	5	\$5,000	\$6,250	\$7,500
	Transfer	3	\$500	\$500	\$500
	Annual Fee	356	\$5,000	\$6,250	\$7,500

Category	Application Type	No. Expected Over 5 Years	Existing Fee	Proposed Fee - Effective Date	Proposed Fee - 5 Years
Major IW Facility >= 250 MGD – Individual Permit	New Permit	0	\$50,000	\$75,000	\$100,000
	Reissuance	8	\$25,000	\$37,500	\$50,000
	Minor Amendment	10	\$200	\$200	\$200
	Major Amendment	3	\$25,000	\$37,500	\$50,000
	Transfer	1	\$500	\$500	\$500
	Annual Fee	32	\$25,000	\$37,500	\$50,000
IW Stormwater – Individual Permit	New Permit	5	\$2,000	\$2,000	\$4,000
	Reissuance	264	\$1,000	\$1,000	\$2,000
	Minor Amendment	3	\$200	\$200	\$200
	Major Amendment	3	\$1,000	\$1,000	\$2,000
	Transfer	5	\$500	\$500	\$500
	Annual Fee	1,056	\$1,000	\$1,000	\$2,000
CAFO – Individual Permit	New Permit	10	\$1,500	\$2,000	\$3,000
	Reissuance	138	\$750	\$1,000	\$1,500
	Minor Amendment	5	\$200	\$200	\$200
	Major Amendment	5	\$750	\$1,000	\$1,500
	Transfer	10	\$0	\$500	\$500
	Annual Fee	552	\$0	\$1,000	\$1,500
MS4 – Individual Permit (including waivers)	New Permit	20	\$5,000	\$5,000	\$5,000
	Reissuance	325	\$2,500	\$2,500	\$2,500
	Minor Amendment	0	\$200	\$200	\$200
	Major Amendment	0	\$2,500	\$2,500	\$2,500
	Transfer	1	\$0	\$500	\$500
	Annual Fee	750	\$500	\$1,250	\$2,500
CAAP – Individual Permit	New Permit	0	\$1,500	\$2,000	\$3,000
	Reissuance	18	\$750	\$1,000	\$1,500
	Minor Amendment	2	\$200	\$200	\$200
	Major Amendment	1	\$750	\$1,000	\$1,500
	Transfer	1	\$0	\$500	\$500
	Annual Fee	72	\$0	\$1,000	\$1,500
Pesticides – Individual Permit	New Permit	1	\$1,000	\$2,000	\$3,000
	Reissuance	8	\$500	\$1,000	\$1,500
	Minor Amendment	0	\$200	\$200	\$200
	Major Amendment	0	\$500	\$1,000	\$1,500
	Transfer	0	\$500	\$500	\$500
	Annual Fee	32	\$500	\$1,000	\$1,500
Stormwater Associated with Construction Activity – Individual Permit	Annual Fee	500	\$0	\$250	\$500

NOTES:

1. The Existing Fee is as of the date of this report. The Proposed Fee – Effective Date is the proposed fee as of the effective date of the updated Chapter 92a regulation. The Proposed Fee – 5 Years is the proposed fee as of 5 years following the effective date of the updated Chapter 92a regulation.
2. NPDES General Permit NOI fees are not presented in this table. The proposed Chapter 92a regulation would eliminate the \$2,500 cap that presently exists at 25 Pa. Code § 92a.26(g). NOI fees will be established in the general permit or the NOI instructions and will not exceed an amount greater than an individual permit application.
3. The number of individual NPDES permit applications expected per year is based on a long-term analysis of actual applications received by the Clean Water Program. For the number of annual fees expected over a 5-year period, the number of existing facilities in the fee category was multiplied by 4, as the existing practice is to invoice facilities for annual fees 4 times following permit issuance prior to submission of a permit renewal application.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 92a. NATIONAL POLLUTANT DISCHARGE ELIMINATION

SYSTEM PERMITTING, MONITORING AND COMPLIANCE

§ 92a.26. Application fees.

(a) [The] **NPDES** application fees [is] **are** payable to the **Commonwealth of Pennsylvania [Clean Water Fund]** according to the fee schedule set forth in this section. All flows listed in this section are **total** annual average design flows **for all discharges at a facility, in million gallons per day (MGD).**

(b) Applications fees for individual NPDES permits [for discharges of treated sewage] are **as follows.[:]**

[SRSTP	\$100 for new; \$100 for reissuance
Small flow treatment facility	\$250 for new; \$250 for reissuance
Minor facility < 50,000 GPD	\$500 for new; \$250 for reissuance
Minor facility > = 50,000 GPD < 1 MGD	\$1,000 for new; \$500 for reissuance
Minor facility with CSO	\$1,500 for new; \$750 for reissuance
Major facility > = 1 MGD < 5 MGD	\$2,500 for new; \$1,250 for reissuance
Major facility > = 5 MGD	\$5,000 for new; \$2,500 for reissuance
Major facility with CSO	\$10,000 for new; \$5,000 for reissuance]

(1) The following application fees for individual NPDES permits are effective immediately:

<u>Category</u>	<u>Application Type</u>	<u>Application Fee</u>
<u>Single Residence Sewage Treatment Plant (SRSTP)</u>	<u>New Permit</u>	<u>\$200</u>
	<u>Reissuance</u>	<u>\$100</u>

<u>Category</u>	<u>Application Type</u>	<u>Application Fee</u>
<u>Small Flow Treatment Facility (SFTF)</u>	<u>New Permit</u>	<u>\$500</u>
	<u>Reissuance</u>	<u>\$250</u>
<u>Minor Sewage Facility < 0.05 MGD</u>	<u>New Permit</u>	<u>\$1,000</u>
	<u>Reissuance</u>	<u>\$500</u>
<u>Minor Sewage >= 0.05 MGD and < 1.0 MGD</u>	<u>New Permit</u>	<u>\$1,500</u>
	<u>Reissuance</u>	<u>\$750</u>
<u>Minor Sewage with CSO</u>	<u>New Permit</u>	<u>\$2,500</u>
	<u>Reissuance</u>	<u>\$1,250</u>
<u>Major Sewage >= 1.0 MGD and < 5.0 MGD</u>	<u>New Permit</u>	<u>\$5,000</u>
	<u>Reissuance</u>	<u>\$2,500</u>
<u>Major Sewage >= 5.0 MGD</u>	<u>New Permit</u>	<u>\$7,500</u>
	<u>Reissuance</u>	<u>\$3,750</u>
<u>Major Sewage with CSO</u>	<u>New Permit</u>	<u>\$12,500</u>
	<u>Reissuance</u>	<u>\$6,250</u>
<u>Minor Industrial Waste (IW) Facility not covered by ELG</u>	<u>New Permit</u>	<u>\$2,000</u>
	<u>Reissuance</u>	<u>\$1,000</u>
<u>Minor IW Facility covered by ELG</u>	<u>New Permit</u>	<u>\$5,000</u>
	<u>Reissuance</u>	<u>\$2,500</u>
<u>Major IW Facility < 250 MGD</u>	<u>New Permit</u>	<u>\$12,500</u>
	<u>Reissuance</u>	<u>\$6,250</u>
<u>Major IW Facility >= 250 MGD</u>	<u>New Permit</u>	<u>\$75,000</u>
	<u>Reissuance</u>	<u>\$37,500</u>
<u>IW Stormwater</u>	<u>New Permit</u>	<u>\$2,000</u>
	<u>Reissuance</u>	<u>\$1,000</u>
<u>CAFO</u>	<u>New Permit</u>	<u>\$2,000</u>
	<u>Reissuance</u>	<u>\$1,000</u>
<u>MS4</u>	<u>New Permit</u>	<u>\$5,000</u>
	<u>Reissuance</u>	<u>\$2,500</u>
<u>CAAP</u>	<u>New Permit</u>	<u>\$2,000</u>
	<u>Reissuance</u>	<u>\$1,000</u>
<u>Pesticides</u>	<u>New Permit</u>	<u>\$2,000</u>
	<u>Reissuance</u>	<u>\$1,000</u>
<u>Stormwater Associated with Construction Activities</u>	<u>See 25 Pa. Code § 102.6(b)</u>	

(2) The following application fees for individual NPDES permits are effective five years following the effective date of this regulation:

<u>Category</u>	<u>Application Type</u>	<u>Application Fee</u>
<u>Single Residence Sewage Treatment Plant (SRSTP)</u>	<u>New Permit</u>	<u>\$200</u>
	<u>Reissuance</u>	<u>\$100</u>
<u>Small Flow Treatment Facility (SFTF)</u>	<u>New Permit</u>	<u>\$1,000</u>
	<u>Reissuance</u>	<u>\$500</u>
<u>Minor Sewage Facility < 0.05 MGD</u>	<u>New Permit</u>	<u>\$1,500</u>
	<u>Reissuance</u>	<u>\$750</u>
<u>Minor Sewage >= 0.05 MGD and < 1.0 MGD</u>	<u>New Permit</u>	<u>\$2,000</u>
	<u>Reissuance</u>	<u>\$1,000</u>
<u>Minor Sewage with CSO</u>	<u>New Permit</u>	<u>\$5,000</u>
	<u>Reissuance</u>	<u>\$2,500</u>
<u>Major Sewage >= 1.0 MGD and < 5.0 MGD</u>	<u>New Permit</u>	<u>\$7,500</u>
	<u>Reissuance</u>	<u>\$3,750</u>
<u>Major Sewage >= 5.0 MGD</u>	<u>New Permit</u>	<u>\$10,000</u>
	<u>Reissuance</u>	<u>\$5,000</u>
<u>Major Sewage with CSO</u>	<u>New Permit</u>	<u>\$15,000</u>
	<u>Reissuance</u>	<u>\$7,500</u>
<u>Minor IW Facility not covered by ELG</u>	<u>New Permit</u>	<u>\$4,000</u>
	<u>Reissuance</u>	<u>\$2,000</u>
<u>Minor IW Facility covered by ELG</u>	<u>New Permit</u>	<u>\$7,500</u>
	<u>Reissuance</u>	<u>\$3,750</u>
<u>Major IW Facility < 250 MGD</u>	<u>New Permit</u>	<u>\$15,000</u>
	<u>Reissuance</u>	<u>\$7,500</u>
<u>Major IW Facility >= 250 MGD</u>	<u>New Permit</u>	<u>\$100,000</u>
	<u>Reissuance</u>	<u>\$50,000</u>
<u>IW Stormwater</u>	<u>New Permit</u>	<u>\$4,000</u>
	<u>Reissuance</u>	<u>\$2,000</u>
<u>CAFO</u>	<u>New Permit</u>	<u>\$3,000</u>
	<u>Reissuance</u>	<u>\$1,500</u>
<u>MS4</u>	<u>New Permit</u>	<u>\$5,000</u>
	<u>Reissuance</u>	<u>\$2,500</u>
<u>CAAP</u>	<u>New Permit</u>	<u>\$3,000</u>
	<u>Reissuance</u>	<u>\$1,500</u>
<u>Pesticides</u>	<u>New Permit</u>	<u>\$3,000</u>
	<u>Reissuance</u>	<u>\$1,500</u>
<u>Stormwater Associated with Construction Activities</u>	<u>See 25 Pa. Code § 102.6(b)</u>	

[(c) Applications fees for individual NPDES permits for discharges of industrial waste are:

Minor facility not covered by an ELG	\$1,000 for new; \$500 for reissuance
Minor facility covered by an ELG	\$3,000 for new; \$1,500 for reissuance
Major facility < 250 MGD	\$10,000 for new; \$5,000 for reissuance
Major facility > = 250 MGD	\$50,000 for new; \$25,000 for reissuance
Mining activity	\$1,000 for new; \$500 for reissuance
Stormwater	\$2,000 for new; \$1,000 for reissuance]

[(d) Application fees for individual NPDES permits for other facilities or activities are:

CAFO	\$1,500 for new; \$750 for reissuance
CAAP	\$1,500 for new; \$750 for reissuance
MS4	\$5,000 for new; \$2,500 for reissuance]

[(e) (c) Application fees for transfers of individual permits are:

SRSTP	\$50
[Small flow treatment facility] <u>SFTF</u>	\$100
[Other domestic wastewater] <u>All other sewage facilities</u>	\$200
Industrial waste, <u>CAFO, MS4 and CAAP</u>	\$500

[(f) (d) Application fees for amendments to individual permits are:

Amendment initiated by Department	No charge
<u>Minor Amendment for SRSTP</u>	<u>\$50</u>
<u>Minor Amendment for SFTF</u>	<u>\$100</u>
Minor amendment <u>for all other facilities</u>	\$200
Major amendment	Same as reissuance [permit] fee

[(g) (e) NOI fees for coverage under a general permit under § 92a.23 (relating to NOI for coverage under an NPDES general permit), **including fees for amendments to or transfers of general permit coverage**, will be established in the general permit **or its NOI instructions**. **NOI fees may not exceed its equivalent in individual permit application fees as described in subsections (b)(1), (b)(2), (c) and (d).** [NOI fees may not exceed \$2,500, except as provided in Chapter 102 (relating to erosion and sediment control).]

(1) Fees for waivers or exemptions from permit coverage will be established in the waiver or exemption application instructions or in the appropriate application or NOI instructions.

(2) An eligible person shall submit to the Department the applicable NOI fee before the Department approves coverage under the general permit for that person, except where the Department requires that the NOI fee be paid in annual increments.

[(h)] (f) Fees for individual NPDES permit applications imposed under section (b)(2) may be increased each calendar year, by a percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year.

(1) If any increase is made based on the Consumer Price Index, the Department will publish the revised fee schedule in the *Pennsylvania Bulletin*.

(2) The Department will not increase application fees for individual NPDES permits beyond the Consumer Price Index difference unless the Environmental Quality Board has promulgated amendments to this section. [The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.]

[(i)] (g) Any Federal or State agency or independent State commission that provides funding to the Department for the implementation of the NPDES program through terms and conditions of a mutual agreement may be exempt from the fees in this section.

(h) The Department may, at its discretion, elect to waive individual permit application and NOI reissuance fees under this section in order to implement section 92a.62(b). If such an election is made, the Department will provide notice in individual permit application and NOI instructions.

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§ 92a.62. Annual fees.

(a) Permittees shall pay an annual fee to the **Commonwealth of Pennsylvania [Clean Water Fund]**. The annual fee must be for the amount indicated in the following schedule and is due on each anniversary of the effective date of the permit **or on a specific date each year if required by the Department**. The flows listed in this section are **total** annual average design flows **for all discharges at a facility, in million gallons per day (MGD)**.

(b) Annual fees for individual NPDES permits [for discharges of treated sewage] are **as follows**.[:]

[SRSTP	\$0
Small flow treatment facility	\$0
Minor facility < 50,000 GPD	\$250
Minor facility > = 50,000 GPD < 1 MGD	\$500
Minor facility with CSO	\$750
Major facility > = 1 MGD < 5 MGD	\$1,250

Major facility \geq 5 MGD	\$2,500
Major facility with CSO	\$5,000]

(1) The following annual fees for individual NPDES permits are effective immediately:

<u>Category</u>	<u>Annual Fee</u>
<u>SRSTP</u>	<u>\$0</u>
<u>SFTF</u>	<u>\$250</u>
<u>Minor Sewage Facility < 0.05 MGD</u>	<u>\$500</u>
<u>Minor Sewage \geq 0.05 MGD and < 1.0 MGD</u>	<u>\$750</u>
<u>Minor Sewage with CSO</u>	<u>\$1,250</u>
<u>Major Sewage \geq 1.0 MGD and < 5.0 MGD</u>	<u>\$2,500</u>
<u>Major Sewage \geq 5.0 MGD</u>	<u>\$3,750</u>
<u>Major Sewage with CSO</u>	<u>\$6,250</u>
<u>Minor IW Facility not covered by ELG</u>	<u>\$1,000</u>
<u>Minor IW Facility covered by ELG</u>	<u>\$2,500</u>
<u>Major IW Facility < 250 MGD</u>	<u>\$6,250</u>
<u>Major IW Facility \geq 250 MGD</u>	<u>\$37,500</u>
<u>IW Stormwater</u>	<u>\$1,000</u>
<u>CAFO</u>	<u>\$1,000</u>
<u>MS4</u>	<u>\$1,250</u>
<u>CAAP</u>	<u>\$1,000</u>
<u>Pesticides</u>	<u>\$1,000</u>
<u>Stormwater Associated with Construction Activities</u>	<u>\$250</u>

(2) The following annual fees for individual NPDES permits are effective five years following the effective date of this regulation:

<u>Category</u>	<u>Annual Fee</u>
<u>SRSTP</u>	<u>\$0</u>
<u>SFTF</u>	<u>\$500</u>
<u>Minor Sewage Facility < 0.05 MGD</u>	<u>\$750</u>
<u>Minor Sewage \geq 0.05 MGD and < 1.0 MGD</u>	<u>\$1,000</u>
<u>Minor Sewage with CSO</u>	<u>\$2,500</u>
<u>Major Sewage \geq 1.0 MGD and < 5.0 MGD</u>	<u>\$3,750</u>
<u>Major Sewage \geq 5.0 MGD</u>	<u>\$5,000</u>

<u>Category</u>	<u>Annual Fee</u>
<u>Major Sewage with CSO</u>	<u>\$7,500</u>
<u>Minor IW Facility not covered by ELG</u>	<u>\$2,000</u>
<u>Minor IW Facility covered by ELG</u>	<u>\$3,750</u>
<u>Major IW Facility < 250 MGD</u>	<u>\$7,500</u>
<u>Major IW Facility >= 250 MGD</u>	<u>\$50,000</u>
<u>IW Stormwater</u>	<u>\$2,000</u>
<u>CAFO</u>	<u>\$1,500</u>
<u>MS4</u>	<u>\$2,500</u>
<u>CAAP</u>	<u>\$1,500</u>
<u>Pesticides</u>	<u>\$1,500</u>
<u>Stormwater Associated with Construction Activities</u>	<u>\$500</u>

[(c) Annual fees for individual NPDES permits for discharges of industrial waste are:

Minor facility not covered by an ELG	\$500
Minor facility covered by an ELG	\$1,500
Major facility < 250 MGD	\$5,000
Major facility > = 250 MGD	\$25,000
Mining activity	\$0
Stormwater	\$1,000]

[(d) Annual fees for individual NPDES permits for other facilities or activities are:

CAFO	\$0
CAAP	\$0
MS4	\$500]

[(e)] (c) Fees for individual NPDES permits imposed under subsection (b) may be increased each calendar year, by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the previous calendar year.

(1) If any increase is made based on the Consumer Price Index, the Department will publish the revised fee schedule in the *Pennsylvania Bulletin*.

(2) The Department will not increase fees for individual NPDES permits beyond the Consumer Price Index difference unless the Environmental Quality Board has promulgated amendments to this section. [The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income

generated by the fees and the costs to administer these programs, and contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.]

[(f) (d) Any Federal or State agency or independent state commission that provides funding to the Department for the implementation of the NPDES Program through terms and conditions of a mutual agreement may be exempt from the fees in this section.