

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 91. GENERAL PROVISIONS

GENERAL

§ 91.1. Definitions.

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CAFO—Concentrated animal feeding operation—An agricultural operation that meets the criteria established by the Department in § [92.1] 92a.2 (relating to definitions).

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General water quality management permit or general permit—A water quality management permit that is issued for a clearly described category of wastewater treatment facilities, which are substantially similar in nature.

Major facility – The term as defined in § 92a.2 (relating to definitions).

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Manure storage facility—A permanent structure or pond, a portion of a structure or pond, or a group of structures or ponds at one agricultural operation, utilized for the purpose of containing manure or agricultural process wastewater. This includes concrete, metal or other fabricated tanks and underbuilding structures, as well as earthen and synthetically-lined manure storage ponds.

Minor facility – The term as defined in § 92a.2 (relating to definitions).

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Single residence sewage treatment plant—A system of piping, tanks or other facilities serving a single family residence located on a single family residential lot which collects, disposes and treats solely direct or indirect sewage discharges from the residences into waters of this Commonwealth.

Small flow treatment facility – The term as defined in § 92a.2 (relating to definitions).

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APPLICATIONS AND PERMITS

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§ 91.22. Fees.

(a) Applications for **new individual** water quality management permits, [from parties except agencies of the Commonwealth] **reissuance of individual water quality management permits, and requests for permit amendments and transfers** shall be accompanied by a [check] **fee** payable to “Commonwealth of Pennsylvania,” in the [following] amounts **specified below.**[:]

(1) For applications for single residence sewage treatment plant permits—\$25.

(2) For applications for sewer extension permits—\$100.

(3) For applications for other water quality management permits—\$500.]

<u>Category</u>	<u>Application Type</u>	<u>Fee</u>
<u>Joint Pesticides Permit</u>	<u>New and Reissuance</u>	<u>\$500</u>
	<u>Amendment</u>	<u>\$100</u>
	<u>Transfer</u>	<u>\$50</u>
<u>Major Sewage Treatment Facility</u>	<u>New</u>	<u>\$10,000</u>
	<u>Amendment</u>	<u>\$2,000</u>
	<u>Transfer</u>	<u>\$250</u>
<u>Major Industrial Waste Treatment Facility</u>	<u>New</u>	<u>\$15,000</u>
	<u>Amendment</u>	<u>\$2,000</u>
	<u>Transfer</u>	<u>\$500</u>
<u>Minor and Non-NPDES Sewage Treatment Facility</u>	<u>New</u>	<u>\$5,000</u>
	<u>Amendment</u>	<u>\$500</u>
	<u>Transfer</u>	<u>\$250</u>
<u>Minor and Non-NPDES Industrial Waste Treatment Facility</u>	<u>New</u>	<u>\$7,500</u>
	<u>Amendment</u>	<u>\$500</u>
	<u>Transfer</u>	<u>\$250</u>
<u>Single Residence Sewage Treatment Plant</u>	<u>New</u>	<u>\$200</u>
	<u>Amendment</u>	<u>\$100</u>
	<u>Transfer</u>	<u>\$50</u>
<u>Small Flow Treatment Facility</u>	<u>New</u>	<u>\$1,000</u>
	<u>Amendment</u>	<u>\$200</u>
	<u>Transfer</u>	<u>\$100</u>

<u>Category</u>	<u>Application Type</u>	<u>Fee</u>
<u>Sewer Extensions</u>	<u>New</u>	<u>\$2,500</u>
	<u>Amendment</u>	<u>\$500</u>
	<u>Transfer</u>	<u>\$250</u>
<u>Pump Station</u>	<u>New</u>	<u>\$2,500</u>
	<u>Amendment</u>	<u>\$500</u>
	<u>Transfer</u>	<u>\$250</u>
<u>Land Application and Reuse of Sewage</u>	<u>New and Reissuance</u>	<u>\$5,000</u>
	<u>Amendment</u>	<u>\$1,000</u>
	<u>Transfer</u>	<u>\$250</u>
<u>Land Application and Reuse of Industrial Waste</u>	<u>New and Reissuance</u>	<u>\$10,000</u>
	<u>Amendment</u>	<u>\$2,000</u>
	<u>Transfer</u>	<u>\$250</u>
<u>Manure Storage and Wastewater Impoundment</u>	<u>New</u>	<u>\$2,500</u>
	<u>Amendment</u>	<u>\$500</u>
	<u>Transfer</u>	<u>\$250</u>

(b) [An] NOI fees for coverage under a general water quality management permit, including fees for amendments to and transfers of general permit coverage, shall be [accompanied by a check] made payable to the “Commonwealth of Pennsylvania[.]” [in the amount no greater than \$500 as set forth in the public notice for the general water quality management permit as described in § 91.27(b)(1) (relating to general water quality management permit).] The fees for a general permit in § 91.27(b)(1) (relating to general water quality management permits) shall be established in the general permit. NOI fees may not exceed the individual permit application fees in subsection (a) for the equivalent category and application type.

(c) The Department will adjust fees for WQM permit applications required under subsection (a) every 2 years based on the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation, or an equivalent index recognized by the U.S. Department of Labor, beginning 2 years after (Editor’s Note: The blank refers to the effective date of the final-form rulemaking). The adjustment will be based upon the cost difference for the most recent 2-year period prior to the calculation. The fees shall not be adjusted if the application of the index would result in fees exceeding the Department’s costs to administer the Clean Water Program. The Department will publish the final adjusted fee schedule and effective date in the *Pennsylvania Bulletin*.

(d) The Department will review the adequacy of the fees established in this section every 3 years and provide a written report to the EQB. The report will identify disparities between the amount of program income generated by the fees and the costs to administer the program, and contain recommendations to increase fees to eliminate any disparities, including recommendations for regulatory amendments to increase program fees.

(e) Any Federal or Commonwealth agency or independent Commonwealth commission that provides funding to the Department for the implementation of the WQM program

through terms and conditions of a mutual agreement may be exempt from the fees in this section.

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§ 91.27. General water quality management permit.

(c) *Denial of coverage.* The Department may deny coverage under the general permit when one or more of the following conditions exist:

(1) The NOI is not complete or timely.

(2) The applicant has not obtained permits required by Chapter [92] **92a** (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) when required.

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§ 91.36. Pollution control and prevention at agricultural operations.

(b) *Land application of animal manure and agricultural process wastewater; setbacks and buffers.*

(1) The land application of animal manures and agricultural process wastewater requires a permit or approval from the Department unless the operator can demonstrate that the land application meets one of the following:

(i) The land application follows current standards for development and implementation of a plan to manage nutrients for water quality protection, including soil and manure testing and calculation of proper levels and methods of nitrogen and phosphorus application. The Manure Management Manual contains current standards for development and implementation of a plan to manage nutrients for water quality protection which can be used to comply with the requirements in paragraph (1).

(ii) For CAOs, the land application is in accordance with an approved nutrient management plan under Chapter 83, Subchapter D.

(iii) For CAFOs, the land application is in accordance with a CAFO permit as described in § [92.5a] **92a.29** (relating to CAFOs).

(2) Unless more stringent requirements are established by statute or regulation, the following agricultural operations may not mechanically land apply manure within 100 feet of surface water, unless a vegetated buffer of at least 35 feet in width is used, to prevent manure runoff into surface water:

(i) A CAO.

(ii) An agricultural operation receiving manure from a CAO directly, or indirectly through a broker or other person.

(iii) An agricultural operation receiving manure from a CAFO directly, or indirectly through a broker or other person.

(3) CAFOs shall meet the setback requirements in § ~~92.5a(e)(1)(i)~~ 92a.29(e)(1)(i).

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§ 91.52. Procedural requirements for underground disposal.

A permit issued under § 91.51 (relating to potential pollution resulting from underground disposal) shall be issued in accordance with the requirements of Chapter ~~92~~ 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) when applicable.

CHAPTER 92a. NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM PERMITTING, MONITORING AND COMPLIANCE

§ 92a.26. Application fees.

(a) [The] NPDES application [fee is] fees are payable to the [Clean Water Fund] Commonwealth of Pennsylvania 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 new individual NPDES permits [for discharges of treated sewage are:] 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]

<u>Category</u>	<u>Application Fee</u>
<u>Single Residence Sewage Treatment Plant</u>	<u>\$200</u>
<u>Small Flow Treatment Facility</u>	<u>\$1,000</u>
<u>Minor Sewage Facility < 0.05 MGD</u>	<u>\$1,500</u>
<u>Minor Sewage Facility >= 0.05 MGD and < 1.0 MGD</u>	<u>\$2,000</u>
<u>Minor Sewage Facility with CSO</u>	<u>\$5,000</u>
<u>Major Sewage Facility >= 1.0 MGD and < 5.0 MGD</u>	<u>\$7,500</u>
<u>Major Sewage Facility >= 5.0 MGD</u>	<u>\$10,000</u>
<u>Major Sewage Facility with CSO</u>	<u>\$15,000</u>
<u>Minor Industrial Waste Facility not covered by ELG</u>	<u>\$5,000</u>
<u>Minor Industrial Waste Facility covered by ELG</u>	<u>\$7,500</u>
<u>Major Industrial Waste Facility < 250 MGD</u>	<u>\$15,000</u>
<u>Major Industrial Waste Facility >= 250 MGD</u>	<u>\$100,000</u>

<u>Category</u>	<u>Application Fee</u>
<u>Industrial Stormwater</u>	<u>\$5,000</u>
<u>CAFO</u>	<u>\$3,000</u>
<u>MS4</u>	<u>\$5,000</u>
<u>CAAP</u>	<u>\$3,000</u>
<u>Pesticides</u>	<u>\$3,000</u>
<u>Mining Activity</u>	<u>\$1,000</u>

In addition, the application fee for reissuance of an individual NPDES permit associated with a mining activity shall be \$500.

(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] <u>Single residence sewage treatment plant</u>	\$50
Small flow treatment facility	\$100
[Other domestic wastewater] <u>All other sewage facilities</u>	\$200
Industrial waste, <u>Industrial stormwater, 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 single residence sewage treatment plant</u>	<u>\$50</u>
<u>Minor Amendment for small flow treatment facility</u>	<u>\$100</u>
Minor amendment <u>for all other facilities</u>	\$200

Major amendment

Same as [reissuance permit fee] annual fee established in § 92a.62

[(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. [NOI fees may not exceed \$2,500, except as provided in Chapter 102 (relating to erosion and sediment control).] NOI fees under this chapter may not exceed the individual permit application fees in subsections (b), (c) and (d) and annual fee in § 92a.62 for the equivalent activity. An eligible person shall submit to the Department the applicable NOI fee before the Department approves coverage under the general permit for that person. If the general permit allows payment of the NOI fee in annual increments, the eligible person shall, if required by the Department, submit the initial increment to the Department with the NOI before the Department approves coverage under the general permit.

(f) The Department will adjust fees for NPDES permit applications imposed under subsections (b), (c) and (d) every 2 years based on the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation, or an equivalent index recognized by the U.S. Department of Labor, beginning 2 years after (Editor’s Note: The blank refers to the effective date of the final-form rulemaking). The adjustment will be based upon the cost difference for the most recent 2-year period prior to the calculation. The fees shall not be adjusted if the application of the index would result in fees exceeding the Department’s costs to administer the Clean Water Program. The Department will publish the final adjusted fee schedule and effective date in the *Pennsylvania Bulletin*.

[(h)] (g)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)] (h) 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.

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§ 92a.32. Stormwater discharges.

(a) The provisions of 40 CFR 122.26(a), (b), (c)(1), (d), (e)(1), (3)—(9) and (f)—(g) (relating to storm water discharges (applicable to State NPDES programs, see § 123.25)) and 122.30—122.37 are incorporated by reference.

(b) *No exposure stormwater discharges.* Discharges composed entirely of stormwater are not stormwater discharges associated with industrial activity if there is “no exposure” of industrial materials and activities to stormwater and the discharger satisfies the conditions in 40 CFR

122.26(g). A facility or activity with no stormwater discharges associated with industrial activity may qualify for a conditional exclusion from a permit, provided that the facility or activity does not discharge to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards). To qualify for the conditional exclusion from a permit, the responsible person shall complete, sign and submit to the Department **[a] the appropriate permit application or NOI, including the appropriate application or NOI fee, and a “No Exposure Certification” on forms available from the Department** at least once every 5 years **[in lieu of a permit application]**.

(c) *Municipal separate storm sewer systems.* The operator of a discharge from a large, medium or small municipal separate storm sewer shall submit in its **permit application or NOI** the information required to be submitted under 40 CFR Part 122 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System). Permits for discharges from municipal separate storm sewer systems are not eligible for a “no exposure” conditional exclusion from a permit under subsection (b). **The operator of a discharge from a small MS4 may seek a waiver from NPDES permit requirements under 40 CFR 122.32(c) (relating to NPDES permit waiver for the operator of a small MS4). To request this waiver, the operator of the small MS4 shall complete, sign and submit to the Department the appropriate permit application or NOI, the appropriate permit application or NOI fee and an application for the waiver on forms available from the Department at least once every 5 years.**

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§ 92a.62. Annual fees.

(a) Permittees shall pay an annual fee **in the amount indicated in the following schedule** to the [Clean Water Fund] **Commonwealth of Pennsylvania**. The annual fee **[must be for the amount indicated in the following schedule and] for permits issued before (Editor’s Note: The blank refers to the effective date of the final-form rulemaking)** is due on each anniversary of the **effective date of the last permit issuance or reissuance [effective date of the permit] until the Department terminates the permit. The annual fee for permits issued for the first time after (Editor’s Note: The blank refers to the effective date of the final-form rulemaking) is due on each anniversary of the effective date of the initial permit until the Department terminates the permit.** 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 **are as follows:**[for discharges of treated sewage are:

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

<u>Category</u>	<u>Annual Fee</u>
<u>Single Residence Sewage Treatment Plant</u>	<u>\$100</u>
<u>Small Flow Treatment Facility</u>	<u>\$500</u>
<u>Minor Sewage Facility < 0.05 MGD</u>	<u>\$750</u>
<u>Minor Sewage Facility ≥ 0.05 MGD and < 1.0 MGD</u>	<u>\$1,000</u>
<u>Minor Sewage Facility with CSO</u>	<u>\$2,500</u>
<u>Major Sewage Facility ≥ 1.0 MGD and < 5.0 MGD</u>	<u>\$3,750</u>
<u>Major Sewage Facility ≥ 5.0 MGD</u>	<u>\$5,000</u>
<u>Major Sewage Facility with CSO</u>	<u>\$7,500</u>
<u>Minor Industrial Waste Facility not covered by ELG</u>	<u>\$2,500</u>
<u>Minor Industrial Waste Facility covered by ELG</u>	<u>\$3,750</u>
<u>Major Industrial Waste Facility < 250 MGD</u>	<u>\$7,500</u>
<u>Major Industrial Waste Facility ≥ 250 MGD</u>	<u>\$50,000</u>
<u>Industrial Stormwater</u>	<u>\$2,500</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>Mining Activity</u>	<u>\$0</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]

(c) The Department will adjust annual fees required under subsection (b) every 2 years based on the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation, or an equivalent index recognized by the U.S. Department of Labor, beginning 2 years after (Editor's Note: The blank refers to the effective date of the final-form rulemaking). The adjustment will be based upon the cost difference for the most recent 2-year period prior to the calculation. The fees shall not be adjusted if the application of the index would result in fees exceeding the Department's costs to administer the Clean Water Program. The Department will publish the final adjusted fee schedule and effective date in the *Pennsylvania Bulletin*.

[(e)] **(d)** 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)] **(e)** 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.