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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATER RESOURCE MANAGEMENT

DIVISION OF WATER QUALITY

Notice of Adoption

New Jersey Pollutant Discharge Elimination System (NJPDES)

Fiscal Year 2025 Annual Fee Report and Assessment of Fees

Notice of Administrative Changes

N.J.A.C. 7:14A-3.1

Take notice that the Department of Environmental Protection (Department) hereby adopts the Fiscal Year 2025 (FY25) 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 FY25 budgeting and fee assessment process for the NJPDES permit program.

Notice of the public hearing and opportunity to comment on the proposed FY25 budget and fee schedule was provided in the New Jersey Register on February 18, 2025, at 57 N.J.R. 422(b), and in the Trenton Times newspaper on February 18, 2025. Notice of availability of the Annual Fee Report on the Department's website at <https://dep.nj.gov/dwq> was mailed to all NJPDES permit holders.

The Department held a virtual public hearing on the FY25 NJPDES Annual Fee Report on March 20, 2025 at 10:00 A.M. Jason Lonardo, Chief of the Bureau of Ground Water, Residuals and Permit Administration, Division of Water Quality, served as the hearing officer

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for the public hearing. Four people attended the public hearing, and none gave oral testimony or provided written comments during the hearing.

The public comment period for the FY25 Annual Fee Report closed on March 20, 2025.

One person submitted written comments which are available for inspection by contacting the Department through email at dwq_pas@dep.nj.gov or by mail at:

Mail Code 401-02B

NJDEP – Water Pollution Management Element

Bureau of Ground Water, Residuals and Permit Administration

Permit Administration Section

PO Box 420

Trenton, New Jersey 08625-0420

After reviewing the record regarding the NJPDES Annual Fee Report, the Department adopted the Annual Fee Report, with no amendments.

As discussed in the Annual Fee Report, the Department used the existing fee assessment methodology established at N.J.A.C. 7:14A-3.1 in calculating permit fees for FY25. There were no changes to the rates between proposal and adoption. The final rates and the permit category amounts to be billed for FY25 are as follows:

CATEGORY	TOTAL ENVIRONMENTAL IMPACT	FINAL RATE	AMOUNT TO BE BILLED
Surface Water Municipal	43,541.176	249.3662	\$8,300,086
Surface Water Industrial	1,377,064.357	16.4840	\$4,647,877
Stormwater	---	---	\$5,328,000

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Groundwater	1,266,249	1.3674	\$3,108,777
Significant Indirect User	20,650.860	64.8762	\$1,421,195
Residuals	---	---	\$172,700
TOTAL:	2,707,505.392	---	\$22,978,636

As discussed in the Annual Fee Report, the Department developed a new fee category for the Discharge to Ground Water Farm Labor Housing (GFLH), Farm Sanitary Discharge (GFSD), and Sanitary Discharge (GWSD) general permits. In addition, the Department deleted the minimum fee associated with the Discharge to Ground Water Sanitary Wastewater Discharges from Commercial Activities on Farms (GWCF) general permit, which is no longer issued by the Department. The Department is reflecting these changes at N.J.A.C. 7:14A-3.1 Table III as an administrative change in accordance with N.J.A.C 7:14A-3.1(b)3.

The following is a list of those persons who provided written comments concerning the Annual Fee Report and/or general comments concerning the NJPDES fee assessment methodology.

Name and Affiliation

1. Dennis Hart, Executive Director, Chemistry Council of New Jersey

The comments received and the Department's responses are summarized below. The number(s) in parentheses after each comment identify the respective commenter(s) listed above.

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Summary of Public Comments and Agency Responses:

1. COMMENT: Operating a facility in New Jersey where the NJPDES permit fee is in excess of \$300,000 and \$400,000 with nothing comparable existing in other states is not sustainable. The current procedures for assessing NJPDES fees based on meeting budget requirements are unfair when the number of permittees and loading/emissions decrease while their discharge permit fees increase. The Department should be transparent and share all stakeholder comments and responses and how its NJPDES budget is calculated, discuss what is included and which costs are fixed or variable, and, specifically, explain why the industrial surface water permit fees drastically increased with less facilities being permitted. (1)

RESPONSE: In determining annual NJPDES fees consistent with the provisions at N.J.A.C. 7:14A-3.1(a)9ii, the budget used to calculate the rate for a category of discharge is equal to the sum of the personnel costs to implement the NJPDES program for that category of discharge, plus a portion of the non-salary operating costs to implement the NJPDES program. Personnel costs are calculated by multiplying the total number of full-time equivalent positions (FTEs) assigned to administer the NJPDES program by the average cost per FTE (including fringe and indirect costs). Non-salary operating costs are based on the amounts appropriated by the New Jersey Department of the Treasury to administer the NJPDES program and include material and supply costs, cost for non-personnel services, and maintenance and fixed charges. All inputs to the above costs are variable, with some inputs more variable than others. Details regarding the personnel and operating costs, as well as a three-year history of the inputs utilized to determine such costs, can be found on pages two through four and Appendices B and C of the

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FY25 Annual Fee Report and Assessment of Fees, available at

https://dep.nj.gov/dwq/permitting_information/permit_and_application_fees/.

The number of certain types of NJPDES permits can remain relatively constant over time, such as the number of sanitary Publicly Owned Treatment Works (POTWs). However, the Department acknowledges that there has been a downward trend in the industrial surface water permit universe. Increases in program costs have corresponded with increases in the annual FY25 NJPDES fees assessed for the current industrial surface water permit holders. These increases are due to two factors. First, Department salaries, fringe costs, indirect costs, and/or operating costs have increased since last year's fee assessments. Second, evolving trends in the Department's regulatory priorities and policy considerations, including those related to Federal and State-level actions to address contaminants of emerging concern, have led to increased complexity in the administration of permits, which, in turn, has required a greater expenditure of Department resources and effort.

The New Jersey Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., authorizes the Department to "establish and charge reasonable annual administrative fees, which fees shall be based upon, and shall not exceed, the estimated cost of processing, monitoring and administering the NJPDES permits." See N.J.S.A. 58:10A-9. The Water Pollution Control Act, therefore, anticipates that the Department will fund and administer the NJPDES program through fees charged to permittees. In Through a review of past surveys, the Department determined how other states fund their "NJPDES-equivalent" programs, and to what extent fees cover their budgets. The results showed that, other than New Jersey, only California covers 100 percent of its total costs through the assessment of fees; the costs of most other states' programs are offset by revenue from other sources. This finding helps to explain why some states have lower permit

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fees. For example, the survey revealed that revenue from permit fees paid only 30 percent of the costs to administer the Pennsylvania program. Similarly, Delaware covered only 20 percent of the costs to administer its program through fees and had not adjusted most of its permit fees since 1991.

2. COMMENT: The Department is strongly urged to restructure its industrial fee calculations to make them more predictable and equitable. The current self-fulfilling process of meeting Department budget requirements is entirely unfair as the number of permittees and loading/emissions decrease while their discharge permit fees increase. Our members do not experience this unfairness in other states where their annual permit fees average 10% of what the Department charges. We have been meeting with the Department for many years to attempt to address this issue. It is our understanding that the Department recognizes that these high industrial fees are unsustainable and, after years of engaging in workgroups, we have worked together on drafting changes to the formula. We have been anxiously waiting for these improvements to be made, and we are growing frustrated and disappointed with the repeated delays in action. The Department should not move forward with this fiscal year's Annual Fee Report and Assessment of Fees until the much-needed improvements to the fee structure are made. (1)

RESPONSE: The FY25 NJPDES annual fees were assessed consistent with existing rules at N.J.A.C. 7:14A-3.1. The rules provide for the calculation of annual fees based on a minimum fee and, where applicable, a measure of environmental impact multiplied by a rate. The minimum fees are set forth in Table III at N.J.A.C. 7:14A-3.1 and are based on the permittee's specific type (or category) of discharge. Depending on the type of discharge, one of several

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methods is used to determine a permittee's environmental impact. In some cases, the environmental impact is based on the nature of the discharge (for example, pollutant type); for others, the environmental impact is based on the quantity of pollutants discharged. In determining the additional fee associated with a permittee's environmental impact, a rate is calculated and applied to each category of discharge. This rate is a weighted unit of environmental impact and is calculated based on the total budget for a category of discharge, as well as the sum of minimum fees and the total environmental impact for all permittees in that category of discharge.

Inasmuch as the Water Pollution Control Act requires the Department to establish and charge fees, the Department is unable to forego the assessment of fees.

The Department acknowledges the concerns expressed by the commenter regarding the existing fee structure. As correctly noted by the commenter, the Department is currently re-evaluating the NJPDES fee structure at N.J.A.C. 7:14A-3. Partially in response to concerns historically expressed by permittees, the Department is seeking to develop a structure that would yield fees that are more transparent and predictable and provide for a more equitable distribution of fees while continuing to cover program costs.

3. COMMENT: For further consideration, resubmitted is a recap of prior stakeholder comments regarding NJPDES fee reform pertaining to industrial facilities. In restructuring the provisions of the NJPDES fee rule, it is reasonable for the Department to consider a simplified fee assessment process that uses a tiered fee approach using flow or some other factor to establish a permit fee. An average flow tiered approach is recommended as both equity and predictability are our concerns. A design flow or hybrid tiered approach is not supported as it

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may not be equitable because some facilities operate closer to their design than others. Members are supportive of the NJDEP considering a new minimal NJPDES submittal fee for certain registrations, certifications, or general permit authorizations. Reasonable fees should be charged commensurate with effort. Regarding an “add on” fee for an individual permit that is a Category B permit (Industrial Discharge to Surface Water) and is classified as a “major facility” pursuant to N.J.A.C. 7:14A-1.2, our assumption is that the additional fee is based on the theory that industrial facilities are more complex than municipal facilities. If an additional fee is to be charged for industrial facilities, then POTWs that receive industrial flow should be treated similarly. Also, we are interested in knowing and commenting on how the NJDEP plans to determine this add-on number to ensure that industrial facilities are treated equitably relative to other facilities. This add-on fee seems to introduce uncertainty into a system that the NJDEP is attempting to remove uncertainty from via this process; thereby, we oppose this until further discussion of the concepts. In addition, there is support for a reduction in the permit fee for facilities whose discharge is primarily non-contact cooling water or cooling tower blowdown. There is opposition to an automatic annual increase of fees. Industries and municipalities do not receive automatic increases in their revenue and any NJDEP program should be evaluated on an annual basis for the need to increase any fee. We are anxious for these changes to be made. (1)

RESPONSE: The Department acknowledges receipt of the commenter’s feedback and is considering this information as part of its review of N.J.A.C. 7:14A-3. Any resulting rulemaking will be subject to public comment and notice procedures.

Full text of the changed rule follows (additions indicated in boldface **thus**):

SUBCHAPTER 3 DETERMINATION OF PERMIT FEES

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7:14A-3.1 Fee schedule for NJPDES permittees and applicants

(a) - (m) (No change.)

Tables I and II

(No change.)

Table III

Minimum Fees

<u>Permit Fee Category¹</u>	<u>Min Fee Code</u>	<u>Minimum Fee</u>
1. - 20. (No change.)		
21. [DGW – Sanitary Wastewater Discharges from Commercial Activities on Farms GP (GWCF)]	GCF	\$1,250
DGW – Sanitary Discharges at Farms (GFSD)	GFS	\$3,100
22. DGW – Farm Labor Housing (GFLH)	GFL	\$2,500
23. DGW – Sanitary Discharge Less Than Or Equal to 20,000 Gallons Per Day (GWSD)	GWS	\$3,100

Recodify existing 22. - 37. as **24. - 39.** (No change in text.)

¹⁻⁷ (No change.)