

ADEQ WQD Fees Rulemaking

Informal Stakeholder Review/ Comment

September 23, 2010

Why are we here?

- General Fund has been eliminated from ADEQ Budget
 - General Fund derived from taxpayers statewide had historically been used to:
 - fund the entire cost of AZPDES permitting at no cost to the applicant
 - subsidize indirect costs of the APP program
 - Existing APP fees have not been adjusted since 2001
 - HB2767 authorizes ADEQ one-time rulemaking to raise APP, establish AZPDES fees and collect total program costs

Who will be impacted?

Everyone

Our objective is to be:

- Fair – fees supported by and connected to actual program expenses; no higher than absolutely necessary
- Equitable - no single regulated entity impacted disproportionately
- Transparent - revenues derived will be used to support only Water Quality permitting programs

Funding & Efficiencies

ADEQ recognizes increases in
fees requires continued
permitting efficiencies and program
improvements

APP & AZPDES Program Costs

Program	Current Costs
AZPDES	
Individual & General Permits	\$1,435,456
Compliance & Inspections	\$1,871,444
Administration	\$670,517
Total AZPDES Program	\$3,977,417
APP	
Individual & General Permits	\$3,872,219
Compliance & Inspections	\$1,643,702
Administration	\$1,765,583
Total APP Program	\$7,281,504
GRAND TOTAL	\$11,258,921

Strategy to Fund Permitting Programs

- Establish a new hourly rate for both APP and AZPDES programs based on the number of billable hours per year for a permit writer/technical reviewer
- Adjust/establish general permit fees and annual or renewal fees based on hours to develop, implement & manage the permit
- Adjust/establish annual fees for individual permits to cover administration, inspections, data management, additional program activities

Draft Rule Text Review

Definitions

- Clarifying definitions for:
 - Complex modification
 - Use of compliance schedules in APP permits
 - Standard modification
 - Exploring tiering by level of effort of amendment

Hourly Rate & Maximum Fees

- Proposal establishes hourly rate of \$122 for all water quality protection services except those assigned a flat fee or APP minor amendment (e.g. APP, AZPDES, reclaimed, pretreatment, determinations of applicability (DOAs))
- Maximum fees – *one table* for individual APP, AZPDES & Reclaimed permits
 - Examining maximum fee amounts for certain categories



Maximum Fees

<u>Program Area</u>	<u>Permit Type</u>	<u>Maximum Fee</u>
<u>APP</u>	<u>Individual or area-wide</u>	<u>\$200,000</u>
<u>APP</u>	<u>Complex modification to individual or area-wide</u>	<u>\$200,000</u>
<u>APP</u>	<u>Standard modification to individual or area-wide</u> <u>Possibility to Tier standard mods</u>	<u>\$50,000</u>
<u>APP</u>	<u>Clean closure of facility</u>	<u>\$70,000</u>
<u>APP</u>	<u>Determinations of applicability</u>	<u>\$32,000</u>
<u>AZPDES</u>	<u>Individual permit for municipal separate storm sewer (MS4) phase one</u>	<u>\$40,000</u>
<u>AZPDES</u>	<u>Individual permit for wastewater treatment plant (based on design flow)</u> ▪ <u>3,000 to 99,999</u> ▪ <u>100,000 to 999,999</u> ▪ <u>1,000,000 to 9,999,999</u> ▪ <u>10,000,000 or more</u>	<u>\$12,500</u> <u>\$15,000</u> <u>\$25,000</u> <u>\$40,000</u>
<u>AZPDES</u>	<u>Individual permit for a facility or activity that is not a wastewater treatment plant or MS4</u>	<u>\$30,000</u>
<u>AZPDES</u>	<u>Approval of a new or revised pretreatment program under AZPDES</u>	<u>\$10,000</u>
<u>AZPDES</u>	<u>Consolidated individual permit for multiple AZPDES individual permits, as allowed under A.A.C. R18-9-B901(C)</u>	<u>Aggregate of the applicable maximum fees</u>
<u>Reclaimed</u>	<u>Reclaimed water individual permit</u>	<u>\$32,000</u>

Questions?

- Will we be charged for pre-application meetings?
- Will a fee for approvals of revisions to a current industrial pretreatment program be required?

Annual Fees for Individual Permits

- APP Annual Registration Fees set to reflect the amount of time spent to administer permits:
 - Data management
 - Compliance/inspections
 - Billing
- AZPDES annual fees are set to reflect the amount of time spent on additional AZPDES required activities:
 - Additional data management (WET data, TIE/TRE, QA-DMR proficiency testing, biosolids annual reports, pretreatment)
 - Inspections/compliance – MSGP, SWPP/SWMP review
- Reclaimed water – are set to cover time spent on:
 - Data management
 - Inspections

Questions?

- ARS 49-242 indicates the ARF is based on discharge or influent per day. Please clarify how annual fees will be assessed?
- If a facility has an AZPDES permit but has no discharge, what will the annual fee be?
- What does the term “major” mean?
- Will annual fees be applied to NPDES permits issued by EPA?

R18-14-108

- Type 2 & Type 3 General Permits
- Data review less for reclaimed Type 2 & 3 permits – established new section R18-14-110
- Data review for APP Type 2 & 3 revealed more time needed

Permit Type	Current Fee	<i>Proposed Fee</i>
Type 2 initial permit	\$600	<i>\$1500</i>
Type 2 renewal	\$200	<i>\$500</i>
Type 3 initial permit	\$3000	<i>\$6000</i>
Type 3 renewal	\$1000	<i>\$2000</i>

Questions?

- Will fees be required for a voluntary CMOM program?
- Will Type 4.01 GP fees apply only to areas where ADEQ has not delegated authority?

Type 4.01 GP

4.01 General Permit: Sewer Collection Systems

<u>Maximum fee; fee is assessed on a per component basis and is cumulative up to the maximum fee</u>	<u>\$25,000</u>
<u>Gravity sewer only with manholes systems with design flow less than or equal to 10,000 gpd</u>	<u>\$1,000</u>
<u>Each additional 50,000 gpd of gravity sewer only with manholes systems</u>	<u>\$1,000</u>
<u>Force main with design flow less than or equal to 10,000 gpd</u>	<u>\$1,000</u>
<u>Each additional 50,000 gpd of force mains</u>	<u>\$1,000</u>
<u>Each sewer lift station</u>	<u>\$1,000</u>
<u>Each depressed sewer</u>	<u>\$1,000</u>
<u>Realignment of existing sewer for a contiguous project that is less than 300 linear feet with no change in design flow or pipe</u>	<u>\$500</u>

AZPDES Flat Fees

- Proposal: develop a fee structure for existing & future AZPDES general permits based on:
 - Factors such as population, amount of disturbed acreage, amount applied
 - Amount of time to develop general permit
 - Amount of time to process the NOI/application
 - Amount of time to administer the permit over 5 years
 - data management, inspections, reviewing reports/pollution prevention plans, developing database applications

- Costs of permit are spread over 5 years resulting in initial fees and annual fees being the same

MS4 Phase II Permits

Previous title: Municipal stormwater discharges

Fee based on population factors <u>that was used for the MS4 Phase II designation</u>	Initial Fee	Annual Fee
Less than 10,000	\$2,000	\$2,000
Greater than 10,000 but \leq 100,000	\$4,500	\$4,500
Greater than 100,000	\$7,000	\$7,000
Non-traditional MS4: hospital, university, military installation	\$4,500	\$4,500

Fees cover SWMP review, audits, annual reports and compliance assistance



Stormwater Discharges

Previous title: Non-municipal stormwater discharges
 e.g., MSGP & CGP Permits

Fee based on <u>amount of disturbed acreage (for CGP) or acreage with potential to discharge (for MSGP) identified in the SWPPP</u>	Initial Fee	Annual Fee
Less than 1 acre but part of greater plan of development	\$250	\$250
> 1 acre but ≤ 10 acres	\$500	\$500
> 10 acres but ≤ 40 acres	\$750	\$750
> 40 acres but ≤ 160 acres	\$1,000	\$1,000
> 160 acres but ≤ 640 acres	\$2,000	\$2,000
> 640 acres	\$3,000	\$3,000
SWPPP review	\$1,000	
Waiver or Certificate of No Exposure (CNE)	\$1,250	
Co-Permittees – each entity pays fees applicable to the amount of acreage it controls	Fee above	Fee above

Questions?

- If a contractor is working for ADOT, will they have to pay the fee?
- If more than one entity must obtain permit coverage, how do you determine the fee?
- If I contract all the work to a third party, do I need permit coverage?
- How will the annual fee work for CGP? If a project is 18 months long?

Questions?

- How are the MSGP fees assessed?
- If all my stormwater reports to the pit, do I need a permit? If I have no potential to discharge, is the fee reduced?
- What is the justification for an annual fee for Certificate of No Exposure?
- What happens if my SWPPP gets called in but the fees aren't yet in place?

Non-SW Discharges

- Proposing a series of general permits to cover certain types of discharges
- Fees cover total time over 5 years to:
 - develop permit,
 - staff time on application/NOI,
 - data management,
 - database development,
 - inspections,
 - report or plan review,
 - customer service and
 - compliance assistance
- Total cost for each “level” are divided over 5 years resulting in initial and annual fees being the same

Non-SW Discharges

Level	Permit Creation (hours)	Staff NOI Time (hours)	Insp/ Data 5 yrs (hrs)	Possible Permit Types	Initial Fee	Annual Fee
1A	< 1000	< 2	< 1	DMGP single source/ routine to eph/edw/non-DWS canal; PGP single source	\$250	\$125
1B	< 1000	< 10	< 1	DMGP – single source/routine to perennial/intermittent/DWS canal; DMGP areawide; PGP areawide	\$500	\$250
2	< 1000	< 20	< 20	Arsenic WTP; riparian restoration projects	\$1,250	\$1,250
3	> 1000	< 40	<25	GW remediation discharges to eph, edw, canals, infrequent discharges	\$1,500	\$1,500

Non-SW Discharges

Level	Permit Creation (hours)	Staff NOI Time (hours)	Insp/ Data 5 yrs (hrs)	Possible Permit Types	Initial Fee	Annual Fee
4A	>1000	< 60	< 30	Domestic/municipal WWTP to EDW, PBC	\$2,000	\$2,000
4B	>1000	<80	< 40	Domestic/municipal WWTP to A&Ww, A&Wc, FBC, DWS, FC	\$2,500	\$2,500
				Emergency discharges	\$10,000	
				Biosolids initial registration amended registration	\$250 \$125	

Questions?

- Will ADEQ clarify the review fees associated with the DMGP NOIs? Will fees be assessed based on actual discharge or projected?
- Where will the Pesticide GP be in the fee schedule?
- Please clarify what the “emergency discharge” would be used for?
- Initial registration and amendments for biosolids – how is the fee calculated? By acreage?

Reclaimed Flat Fees

- Differences in review times between APP and reclaimed water general permits resulted in a separate section under R18-14-110
- The term “complex” applies to:
 - Type 2: Direct Reuse of Class C Reclaimed Water
 - Type 3: Reclaimed Water Permit for Gray Water

Permit Type	Initial Fee	Renewal
Reuse Type 2 standard	\$600	\$450
Reuse Type 2 complex	\$750	\$575
Reuse Type 3 standard	\$1500	\$1250
Reuse Type 3 complex	\$2000	\$1500
Amendment to NOI	Renewal fee	N/A

Implementation

- I already have a permit application in process, do I have to pay new fees?
- When will existing permits be charged annual fees?
- Will annual fees be charged for permit renewals?
- How will ADEQ control costs when employees leave?
- How will ADEQ safeguard the monies from being swept?

Proposed Rulemaking Schedule

Docket Opening	7/30/2010
Draft proposed rules	June - Sept
Files proposed rules w/ Secretary of State (SOS) office	10/15/2010
Notice publishes/30 day comment period begins	11/8/2010
Public comment period ends	12/10/2010
GRRC submittal & review period begins	1/10/2011
GRRC hearing on rules	4/5/2011
SOS filing date (60 days prior to effective date)	4/8/2011
Effective date	6/8/2011