

Division of Water and Waste Management (Water)

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e-mail: <http://www.dep.wv.gov/WWE/Pages/default.aspx>

The Division of Water and Waste Management (DWWM) regulates the discharge of pollutants into waters of the State.¹ This is accomplished primarily through permit programs to limit surface water pollution discharged by municipal and industrial facilities, construction sites and non-regulatory control of improper land uses. DWWM also manages programs that protect groundwater, wetlands, and non-coal dams.²

The DWWM is also responsible for many non-permitting programs such as West Virginia's State Revolving Loan Fund program for wastewater treatment systems, West Virginia's total maximum daily load, or ATMDL program, and the statewide watershed assessment program. The DWWM receives much of its funding through the Federal Clean Water Act and manages many federally initiated programs, including the National Pollutant Discharge Elimination System (NPDES) and Underground Injection Control System (UIC) programs.

¹ See Page DWWM-2

² See Page DWWM-2

Discharge Elimination System (NPDES) Permits-Overview

DWWM's primary permitting program is the National Pollutant Discharge Elimination System or NPDES program. The NPDES program is a federally delegated program pursuant to the Clean Water Act. NPDES permits in West Virginia are issued under the authority of the DWWM, although the Division of Mining and Reclamation (DMR) and the Office of Oil and Gas (OOG) are also involved in NPDES permits involving mining and oil and gas development. DWWM issues both individual and general NPDES permits. Sewage sludge permits are water pollution control permits but not NPDES permits. Individual permits will be required for most industrial, commercial or industrial landfill, and wastewater treatment activities. DWWM currently administers ten general permits for certain classes of activities. The general permitting process is designed to be much faster and less expensive than the individual permitting process.

Individual NPDES Permits

The processing time for individual permit applications is 180 calendar days. This period includes 15 calendar days for technical review, during which time the agency conducts its geological (when necessary) and engineering reviews and develops the draft permit. If changes are required in the application the 90 calendar days resets and does not start again until the agency receives information requested. The 180 days also includes a 90 calendar day public participation/permit decision period, during which time the agency solicits public comments, holds a public hearing in some cases, responds to comments received, and approves or denies the permit.

Individual Water Pollution Control Permit

Purpose:

To ensure technology based waste treatment requirements are in place and the state's water quality standards are protected (applicable to industrial waste, sewage treatment and disposal systems greater than 50,000 gallons per day).

Fees:

Application, annual and groundwater protection fees are within the following ranges:

Application Fees range from \$85 to \$5,000 for an existing facility, and from \$340 to \$15,000 for a new facility.

Annual Fees range from \$50 to \$5,000.

Annual Groundwater Protection Fees range from \$25 to \$500.

Public Participation:

The agency places a public notice (Class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost.

Who Must Apply:

Anyone acquiring, constructing, installing, modifying or operating a facility discharging treated or untreated sewage, industrial waste, other wastes or effluent from these wastes into state waters.

¹The Division is guided by and implements the following laws and rules: the federal Safe Drinking Water Act and Clean Water Act; Chapter 22, Articles, 1, 11, 12, 13, 14, and 15 of the West Virginia Code; Chapter 22C, Articles 2, 11, and 12 of the West Virginia Code; Rules 46 CSR Series 1 and 12; 47 CSR Series 9, 10, 11, 11A, 13, 26, 32, 34, and 55-60; 33 CSR 1 and 2; and 60 CSR 5.

²For permit requirements for coal mining activities, see the Division of Mining & Reclamation (DMR) chapter of this handbook. NPDES permits and 401 certifications for coal mining activities are reviewed by the DMR and submitted for final approval by the Director of the DWWM.

Other:

The applicant must receive a permit from the West Virginia Department of Health and Human Resources if proposing a sewage facility that is not federally funded.

Industrial Solid Waste Landfill Permit

Purpose:

To ensure proper management and disposal of industrial solid waste at industrial landfills.

Who Must Apply:

Any industry disposing of or proposing to dispose of non-hazardous industrial waste at an industrial landfill.

Fees:

The initial application fee is \$5,000 with a renewal fee is \$1,000. The annual fee is \$5,000 and the annual groundwater protection fee is \$300.

Public Participation:

The agency places a public notice (Class II legal advertisement) with a 30-calendar day comment period in a local newspaper. The applicant must pay the advertising cost.

Industrial Users of Sewage Treatment Facilities, Permit Modification

Purpose:

To control contributions of industrial water waste to sewage treatment facilities (publicly owned treatment works) and ensure compliance with national pretreatment standards and discharge requirements.

Who Must Apply:

Any sewage treatment facility (publicly owned treatment works) not operating an approved pretreatment program and seeking to accept a new contribution of industrial wastewater.

Note: Industry seeking acceptance of wastewater at a sewage treatment facility with an approved pretreatment program must submit an application to the sewage treatment facility.

Fees: Permit modification application fees are from \$50 to \$2,000. Sewage treatment facility application fees:

Approved pretreatment program - Fees for industrial users vary and are outlined in the local sewer use ordinances.

Non-approved pretreatment program - Service fees may be charged by the sewage treatment facility.

Public participation:

Sewage treatment facilities with approved pretreatment programs: Public notice requirements are subject to the requirements of individual facilities.

Sewage treatment facilities without approved pretreatment programs: Agency places a public notice (Class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay costs. A public hearing is conditional, based on the level of public interest on issues relevant to the draft permit modification.

General NPDES Permits

The DWWM usually reviews and acts on applications for registration under a general permit within 30 - 45 calendar days where public notification is not required. The average processing time for some general permits may be longer or shorter (as noted in the summaries for each general permit below). Applying for coverage under a general permit usually requires public notification. When public notice is required the application processing time will increase by 45 - 60 calendar days.

General permits are typically issued for a 5-year term. Coverage under the general permit is valid up to five years, depending on the date of registration and the permit's expiration date. The agency solicits public comments on a general permit once every five years (upon issuance or re-issuance) by placing a public notice (class I legal advertisement) with a 30 calendar day public comment period in newspapers. A public hearing may be held based on the level of public interest in issues relevant to the draft permit.

The following general permits are currently issued and available for qualified registrants:

- Stormwater Associated with Construction Activity Permit.

- Small Sewage Facility Permit (maximum of 50,000 gallons per day).

- Disposal of Sewage from Small Sewage Treatment Systems Serving Individual Residents.

- Remediation of Petroleum Contaminated Sites Permit.

- Hydrostatic Water Testing from a Newly Constructed Pipeline Permit.

- Car Wash Permit.

- Stormwater Associated with Industrial Activity Permit (except for construction and mining activities).

- Disposal of Sewage Sludge and/or Domestic Sewage at Publicly Owned Treatment Works Permit.

- Land Application of Sewage Sludge and/or Domestic Sewage Permit.

- Water Treatment Plant.

- Small Municipal Separate Storm Sewer Systems (MS4).

A summary of general permits is set forth below, including fee requirements, public notice requirements, and other approvals that may be needed before a permit can be issued.

Stormwater Associated With Construction Activity Permit

Purpose:

To provide expedited permit coverage and ensure proper management of stormwater discharged from construction activities.

Who Must Apply:

Anyone discharging stormwater from construction activities involving three or more acres and which discharge only storm water.

Fees:

Application Fees range from \$700 to \$1,750.

Annual Fees (for projects lasting more than one year) range from \$100 to \$1,750.

Annual Groundwater Protection Fee (for projects lasting more than one year) is \$50.

Notable Requirements:

Applicants for coverage under this general permit must submit a complete registration application 30 days before beginning construction. In addition, the applicant must prepare a stormwater pollution prevention plan; incorporating a best management practices plan, and a groundwater protection plan. Coverage under this general permit is valid until the site is satisfactorily stabilized and a notice of termination is submitted to the DWWM. Thereafter, the agency will conduct a final inspection.

Other Approvals:

The applicant must receive a dredge and fill permit from the US Army Corps of Engineers when applicable, and must receive right-of-entry approval from the Public Lands Corporation of the West Virginia Division of Natural Resources to work in a stream. Applicants must also be in compliance with appropriate local ordinances.

Small Sewage Facility Permit (Maximum of 50,000 Gallons Per Day)

Purpose:

To provide expedited permit coverage for small sewage facilities.

Who Must Apply:

Anyone who operates a small sewage facility and accepts the conditions of the existing general permit. Operators who don't accept the conditions must apply for an individual NPDES permit.

Fees:

Application Fees range from \$77 to \$230 for an existing facility and range from \$306 to \$765 for a new facility.

Annual fees range from \$50 to \$100 with an annual groundwater protection fee of \$10.

Notable Requirements:

Applicants applying for coverage under this general permit for the first time must place a public notice (Class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest on issues relevant to the draft permit.

Other Approvals:

The applicant must receive a permit from the West Virginia Department of Health and Human Resources for proposed small sewage facilities.

Disposal of Sewage from Small Sewage Treatment Systems Serving Individual Residents (maximum of 600 gallons per day)

Purpose: To provide expedited permit coverage for individual residential sewage treatment facilities which will directly discharge treated wastewater into state waters.

Who Must Apply: Anyone constructing and operating a new individual sewage treatment facility.

Fees: *Application Fee* is \$150 to replace a failing septic tank and \$306 for a new facility. *Annual groundwater protection Fee* is \$10.

Notable Requirements: This permit is only for residential sewage treatment facilities. Applicants must obtain a *Awaste load allocation@* from the Permits section of DWWM prior to submitting their registration application.

Application Processing Time: Technical review and permit decisions require approximately 14 calendar days.

Other Approvals: Applicants must receive a permit from the West Virginia Department of Health and Human Resources.

Remediation of Petroleum Contaminated Sites Permit

Purpose: To provide expedited permit coverage for remediation of sites involving petroleum contaminated groundwater and/or surface water.

Who Must Apply: Anyone remediating petroleum contaminated groundwater and/or surface water.
Note: Operators who cannot or do not accept the general permit conditions must apply for an individual NPDES permit.

Fees: *Application Fees* range from \$720 to \$2,700. *Annual Fees* (for projects lasting more than one year) range from \$100 to \$5,000. *Annual Groundwater Protection Fee* (for projects lasting more than one year) is \$50.

Hydrostatic Water Testing From a Newly Constructed Pipeline Permit

Purpose

To provide expedited permit coverage for hydrostatic water testing of a newly constructed pipeline (a one-time discharge).

Who Must Apply

Anyone discharging waste associated with hydrostatic water testing for newly constructed pipelines and who accepts the conditions of the existing general permit.

Related Laws/Rules

Laws

Water Pollution Control Act - W.Va. Code, Chapter 22, Article 11

Groundwater Protection Act - W.Va. Code, Chapter 22, Article 12

Rules

46 CSR Series 1, 12

47 CSR Series 10, 11, 26, 55, 58

Length of Permit

Coverage under the general permit is valid up to five years, depending on the permit=s expiration date.

Fees

Application fees range from \$300 to \$1,350.

Typical requirements of Owner/Operators

Submit a complete site registration application that describes the anticipated effluent discharge quality and includes a sediment control plan.

Submit regular reports about the effluent discharge quality.

Public Participation

The agency solicits public comments on this permit every five years by placing a public notice (class I legal advertisement) with a 30-calendar day public comment period in newspapers in counties where these activities are known or expected to occur. A public hearing is conditional, based on the level of public interest in issues relevant to the draft permit.

Because these discharges generally last only one day, applying for coverage under the general permit does not require public notification.

Contact

(304) 926-0495

Application Processing Time

Technical review and the permit decision require approximately 15 calendar days.

Storm water Associated With Industrial Activity Permit (except for construction and mining activities)

Purpose: To provide expedited permit coverage for stormwater discharges associated with industrial activity in situations for which the U.S. EPA has not developed guidelines.

Who Must Apply: Anyone discharging stormwater from an industrial activity. Note: Operators who cannot or do not accept the conditions of this general permit must apply for an individual NPDES permit.

Fees: *Application Fees* range from \$120 to \$580 for existing facilities and from \$470 to \$1,750 for new facilities. *Annual fees* range from \$100 to \$1,500. *Annual Groundwater Protection Fee* is \$50.

Public Participation: Applicants applying for coverage under the general permit for the first time must place a public notice (class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the draft permit.

Disposal of Sewage Sludge and/or Domestic Sewage at Publicly Owned Treatment Works Permit

Purpose: To establish an efficient, environmentally safe procedure for the disposal of sewage sludge and/or domestic sewage from a publicly owned treatment works facility.

Who Must Apply: Anyone hauling sewage sludge and/or domestic sewage who accepts the conditions of the existing general permit. Operators who don't accept the conditions must apply for an individual permit.

Fees: *Application Fees* are based on the number of gallons of sludge or sewage disposed of each year: \$150 for under a million gallons, \$250 for a million gallons or more, and \$50 to change the disposal option. *Annual Groundwater Protection Fee* is \$50.

Public Participation: Haulers applying for coverage under the general permit for the first time must place a public notice (class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing is conditional, based on the level of public interest on issues relevant to the draft permit.

Other Approvals: The applicant must hold a valid septic tank cleaning permit from the county health department and must receive an approval letter for disposal from the sewage treatment facility.

Land Application of Sewage Sludge and/or Domestic Sewage Permit

Purpose: To establish an efficient, environmentally safe procedure for land application of sewage sludge and/or domestic sewage.

Who Must Apply: Any hauler applying sewage sludge and/or domestic sewage to land who accepts the conditions of the existing general permit. Operators who don't accept the conditions must apply for an individual NPDES permit.

Fees: *Application and Annual Fees* are based on the amount of sludge or sewage disposed each year. *Application Fees* are \$250 for under a million gallons, \$400 for a million gallons or more, and \$50 to register new land application sites and/or change the number of gallons after a permit is issued. *Annual Fees* are \$75 for every 100,000 gallons land applied, and \$5 for each ton of dewatered sludge or sewage multiplied by the percent of solids.

Public Participation: Applicants applying for coverage under the general permit for the first time must place a public notice (class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing is conditional, based on the level of public interest on issues relevant to the draft permit.

Other Approvals: Applicants must hold a valid septic tank cleaning permit from the county health department and must receive an approval letter for land application from the sewage treatment facility.

Water Treatment Plant Permit

Purpose: To provide expedited permit coverage for wastewater discharges from water treatment plants.

Who Must Apply: Any entity operating a water treatment plant who accepts the conditions of the existing general permit. Operators who do not accept the conditions must apply for an individual NPDES permit.

Fees: *Application Fees* range from \$180 to \$900 for existing facilities, and from \$750 to \$2,700 for new facilities. *Annual Fees* range from \$100 to \$5,000. *Annual Groundwater Protection Fee* is \$50.

Public Participation: Applicants applying for coverage under the general permit for the first time will be subject to a public notice (class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the draft permit.

Small Municipal Separate Storm Sewer Systems

Purpose: To provide expedited permit coverage for operator of small municipal separate storm sewer systems.

Who Must Apply: Jurisdictions including, but not limited to; municipalities, counties, transportation facilities, Federal and State owned prison systems, and universities that are located within the boundaries of a Bureau of the Census defined "Urbanized Area" based on the latest decennial census. Municipalities that are designated by DWWM under 40CFR122.32(a)(2). Designation criteria are included in Appendix D of this general permit.

Fees: \$17.50 per acre of area served by the MS4. Maximum fee is \$1750.00.

Public Participation: The approved Stormwater Management Program is subject to a public notice (class I legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the draft permit.

Notable Requirements: Within 30 days of the effective date of the general permit, all operators shall submit a Notice of Intent. By January 22, 2011 all operators must submit on a site registration application their stormwater management program.

Other DWWM Permits and Certifications

In addition to its NPDES permitting program, the DWWM issues permits or certifications under its Underground Injection Control (classes I and V) or AUIC@ program, the Safe Dams program pursuant to the state Dam Safety Act, and a certification program for federally issued permits or licenses pursuant to Section 401 of the federal Clean Water Act.

The UIC program is a federally delegated program pursuant to the Safe Drinking Water Act that allows the DWWM to issue permits for underground injection of pollutants into class I or class V wells³ to assure protection of groundwater.

West Virginia=s Dam Safety Act requires that dams unrelated to coal mining activities be designed, constructed, operated and removed in compliance with state laws and rules designed to protect the public health and safety. Anyone constructing, repairing, modifying, enlarging, reducing, removing, breaching or abandoning a dam unrelated to coal mining activities must obtain a certificate of approval from DWWM.

Section 401 of the Clean Water Act states that any permit, certificate or license issued by a federal authority, such as the United States Army Corps of Engineers of the Federal Energy Regulatory Commission, must receive certification from the State where the activity will take place. This A401 certification@ certifies that the proposed, federally approved activity is consistent with the State=s water quality standards.

Underground Injection Control (UIC) Permits (Class I and V)

UIC permits are issued to ensure injection of fluids into the ground for treatment is done in compliance with the Safe Drinking Water Act and is protective of the groundwater. Anyone proposing to inject fluids into the subsurface, including fluids from a domestic waste system that has the capacity to serve 20 or more people, must apply for a UIC permit.

Fees: *Application Fees* range from \$25 to \$1,500. *Annual Fees* (for projects lasting more than one year) range from \$25 to \$500. Annual groundwater protection fees (only projects lasting more than one year) are \$200 for class I permits and \$15 for class V permits.

Public Participation:

The agency places a public notice (class I legal advertisement) with a 30 calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the draft permit.

The average processing time, including technical review, public participation (without a public hearing) and the permit decision, is 45 to 60 calendar days. If a public hearing is held, it will add approximately 60 calendar days to the application processing time. Additional time may be required if the application is not complete or based on the complexity of the application.

The applicant must receive a construction permit from the county health department if the method of injection is a subsurface distribution system such as a drain field to a septic system.

Certificate of Approval for Construction of Dams Not Related to Coal Operations

A certificate of approval is required to ensure that a dam, unrelated to coal mining activities is designed, constructed, operated and removed in compliance with state laws and rules protecting public health and safety. A person constructing, repairing, modifying, enlarging, reducing, removing, breaching or abandoning a dam, unrelated to coal mining activities, must obtain a certificate of approval.

Application fees for certificates of approval will be no greater than \$300 for proposed dams, and no greater than \$100 for dam removals. The annual fee will be no greater than \$100. Applications must be certified by a licensed professional engineer and must describe the dam in detail, including hydrology, hydraulics, stability and filter design. Applicants must notify the Division of Natural Resources= nongame wildlife program and the Division of Culture and History about the proposal. After construction, reports must be submitted each year for three years. Thereafter, annual reports must be submitted according to the dam=s hazard classification (class I, at least every two years; class II, at least every three years; class III, at least every five years; class IV, at least every seven years). In addition, the owner must maintain a monitoring and emergency action plan and a maintenance plan.

Public Participation: DWWM places a public notice (class I legal advertisement) with a 15 calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. If someone requests a hearing during the comment period, the agency will hold a hearing within 10 calendar days of request.

Currently, the agency requires approximately 180 calendar days to complete a technical review and perform public participation requirements to issue or deny a certificate of approval.

Section 401 Certification

For Federally Approved ADredge or Fill@ and Hydroelectric Power Activities

Section 401 of the Clean Water Act states that any permit, certificate or license issued by a federal authority, such as the US Army Corps of Engineers (USACOE) or the Federal Energy Regulatory Commission (FERC), must receive certification from the state where the activity will take place. This A401 certification@ certifies that the proposed, federally approved activity is consistent with the State=s water quality standards.

Who Must Apply: Anyone applying for a USACOE Section 404 permit to discharge dredged or fill materials into State waters or a license from FERC for hydroelectric generating facilities.

For Federal 404 permits, the US Army Corps of Engineers places a public notice that describes the proposed activity, notifies the DWWM of its decision on state certification, and notifies the general public of its right to submit comments and request a public hearing. The agency requires approximately 60 calendar days to complete its technical review and public participation requirements (depending on the completeness and complexity of the application). A 401 Certification is valid for the life of a project or for 10 years. It will include any special or general conditions.

For licenses under FERC, the applicant must place a public notice (class II legal advertisement) with a 30-calendar day public comment period in a local newspaper. The applicant must pay the advertising cost. A public hearing may be held based on the level of public interest in issues relevant to the draft permit. The agency may require up to one year to complete technical review and public participation requirements (depending on the completeness and complexity of the application) for 401 certification of a FERC project. Once certified, the certification is valid for up to 50 years.

Other Approvals: A 401 certification only certifies an activity to be permitted by a federal authority. Accordingly, the applicant must obtain a Section 404 permit from the USACOE. The applicant must also file a public land corporation stream activity application with the Real Estate Office of the West Virginia Division of Natural Resources.