

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #7

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FILED

2002 OCT -3 A 8:57

WEST VIRGINIA  
SECRETARY OF STATE  
Effective Date

Oct. 11, 2002

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Division of Water Resources TITLE NUMBER: 47

CITE AUTHORITY: 22-11-4(a.)(16)

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: WATER POLLUTION CONTROL PERMIT FEE  
SCHEDULES

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

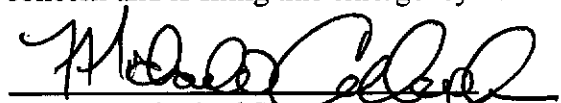
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

This rule was filed on June 25, 2002. Subsequent public hearing and public comment elicited concern over the time lag between the effective date of the federally required reissuance of the NPDES Construction Stormwater Permit (December 2002) and the applicability of the proposed fee for that permit. A proposed flat fee of \$300 will be applied to the new permit for sites of 1 to 3 acres under the new rule. Current rules require a \$700 minimum permit fee which would be applied until the Legislature approves the fee reduction. The agency agrees with the concern and is filing this emergency rule.

Use additional sheets if necessary

  
Authorized Signature

SCANNED



Division of Water Resources  
1201 Greenbrier Street  
Charleston, WV 25311-1088  
Telephone Number: (304) 558-2107  
Fax Number: (304) 558-5905

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## West Virginia Department of Environmental Protection

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Bob Wise  
Governor

Michael O. Callaghan  
Cabinet Secretary

October 1, 2002

The Honorable Secretary of State  
Joe Manchin III  
157 K Building 1  
Charleston, West Virginia 25305

Dear Mr. Secretary:

In anticipation of the federally required reissuance of a National Pollutant Discharge Elimination System (NPDES) permit December 2002 expanding permit coverage to small construction projects of 1 to 3 acres, the Department of Environmental Protection's Division of Water Resources initiated a proposed rule change to 47 CSR 26 in June. The proposal was approved by the DEP's Environmental Advisory Council, went through the public hearing process on July 23 and was subsequently filed with your office.


The proposed change includes a definition for "minor land disturbing activities" (construction sites of 1 to 3 acres) and establishes a flat fee of \$300 for those permitted sites. Under current NPDES fee rules such sites would be required to pay a minimum of \$700.

During public meetings in August, comments were received concerning the time lag between the issuance of the permit in December and the application of the anticipated permit fee reduction. From December 2002 until the Legislature acts on the rule changes, permit applicants will be required to pay the current \$700 fee for coverage. This will disadvantage many permit applicants, particularly small homebuilders. The agency agrees with the concern and therefore is requesting your agreement to amend the rule currently on file to emergency status to become effective upon permit issuance in December.

Joe Manchin  
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With your concurrence we will prepare the appropriate paperwork per your instructions.

Sincerely,



Allyn G. Turner  
Director

cc: Joe Dawley, Legal Services  
Bill Brannon, Deputy Director



EMERGENCY RULE QUESTIONNAIRE

DATE: 10/2/02

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Division of Water Resources

1201 Greenbrier Street  
Charleston, West Virginia  
304 558-2107 Attn: Allyn G. Turner, Director

EMERGENCY RULE TITLE: Water Pollution Control Permit Fee Schedules

1. Date of filing 10/02/02

2. Statutory authority for promulgating emergency rule:  
22-11-4(a) (16)

3. Date of filing of proposed legislative rule: 7/23/02

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? ~~The emergency rule would expedite the application of a fee reduction proposed in the currently filed amendment to the existing legislative rule. Public comment received urges the agency to initiate the fee reduction at the time of permit reissuance in December 2002.~~

5. Has the same or similar emergency rule previously been filed and expired?  
No

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.  
~~Upon reissuance of the Construction storm water NPDES permit by the Division in December 2002, current permit fee rules require a minimum \$700 for projects disturbing 1 to 3 acres. The agency agreed the disadvantage that would cause small homebuilders and proposed a flat \$300 fee for such activities. Comments during public meetings on the reissuance of the permit noted that the lag time between reissuance in December 2002 and application of the reduced fee would cause many to be subject to the \$700 fee versus the \$300 fee. The agency would like to accomodate that concern.~~

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

~~The rule is proposed to comply with federal Clean Water Act and National Pollutant Discharge Elimination System rules which require permits for construction sites of 1 acre or greater. The deadline for reissuance of the current stormwater permit is December 4, 2002. Currently required fees are \$700 for such activities. The emergency rule would make the proposed \$300 fee applicable upon issuance of the permit in December as opposed to after the Legislature acts during the 2003 session.~~  
22-11-4(a)(16)

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

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**BUREAU OF ENVIRONMENT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**BRIEFING DOCUMENT**

**RULE CHANGE**

Changes in federal requirements will mandate by end of year 2002 that all covered construction activities that disturb more than one acre will require a permit. The previous requirement mandated that only those projects disturbing more than 3 acres would require a permit. The proposed rule establishes a new permit application fee of \$300.00 for storm water construction permits for construction sites that disturb one acre of land, but less than three acres.

Because there is no differentiation in the current permit fee rule between 1-3 acre sites and larger sites, all persons who propose to disturb one acre of land and are covered by the federal requirement will be required to pay a \$700.00 application fee. The agency feels smaller 1-3 acre projects should pay a smaller application fee. The proposed rule change will create a separate category and fee for small construction activities (1-3 acres) that will now be required to apply for and maintain a permit requiring only a \$300.00 application fee. The proposed rule has been approved by the WVDEP Advisory Council and is now awaiting approval during the coming legislative term.

The agency is seeking emergency rule status to accommodate concerns expressed in public meetings associated with the permit and in comments subsequent to a public hearing on this rule held on July 23, 2002 that the new fee would not be in place at the time the new federal requirements become effective in December 2002 since legislative approval of the new rule would not be final until some time in 2003. As a consequence, permit applicants would be forced to pay the current \$700.00 fee until the Legislature acts on the proposal during the 2003 regular session.

Without being granted emergency status, small construction projects of between 1-3 acres will be required to pay a \$700.00 permit fee as opposed to the agency's proposed \$300.00 fee.

**STATEMENT OF CIRCUMSTANCES**

The proposed amendments to this rule are being made to address the increased need for personnel to administer the storm water construction permit program due to anticipated changes which will be required by the United States Environmental Protection Agency (USEPA).

USEPA has proposed and will soon require that construction activities that disturb one or more acres of land obtain a National Pollutant Discharge Elimination System (NPDES) permit to address storm water discharges from such activities. Currently, only

construction activities that disturb three or more acres of land need obtain a permit and pay a fee in West Virginia.

In anticipation of this change and the possible fiscal impacts, the agency proposes that activities that disturb one acre of land but less than three acres of land and that will require an NPDES permit be required to pay a minimal fee to pay for the additional administrative costs of the program.

**FEDERAL COUNTERPART REGULATIONS –INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:**

The proposed amendments anticipate a change in federal permitting requirements which will go into affect by end of year 2002 that will require all construction projects that disturb one or more acres of land obtain a storm water NPDES permit. The proposed amendments are related directly to the state's compliance with the federal permitting change and state administrative costs associated with the additional permitting requirements that will result.

**CONSTITUTIONAL TAKINGS DETERMINATION:**

In accordance with West Virginia Code Section 22-1A-1 and 3©), the Secretary has determined that this rule will not result in taking of private property within the meaning of the Constitutions of the United States of America and West Virginia.

**CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL**

During a June 5, 2002 meeting, the Environmental Protection Advisory Council reviewed and discussed this rule. The council requested clarification as to the applicability of the annual fee to these small construction projects. The annual fee would be based upon the length of time the project takes to complete and would be prorated accordingly. These smaller projects would in most instances be subject to a smaller annual fee.

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TITLE 47  
 LEGISLATIVE RULE  
 BUREAU OF ENVIRONMENT  
 DIVISION OF ENVIRONMENTAL PROTECTION  
 OFFICE OF WATER RESOURCES

COMMONWEALTH OF VIRGINIA  
 SECRETARY OF STATE

SERIES 26  
 WATER POLLUTION CONTROL PERMIT FEE SCHEDULES

§47-26-1. General.

1.1. Scope and Purpose. -- This legislative rule establishes schedules of permit application fees and annual permit fees for state water pollution control permits and national pollutant discharge elimination system permits issued by the chief of the Office of Water Resources. This rule applies to any person who is required to apply for and obtain a permit from the chief in order to conduct an activity that is enumerated in W. Va. Code §22-11-8.

1.2. Authority. -- W. Va. Code §22-11-10.

1.3. Filing Date. -- May 4, 2000.

1.4. Effective Date. -- May 4, 2000.

1.5. Incorporation by Reference. Whenever federal or State statutes or regulations are incorporated into this rule by reference, the reference is to the statute or regulation in effect on the effective date of this rule.

1.6. Repeal of Formal Rule. -- This legislative rule repeals and replaces 47 C.S.R. 26 "Water Pollution Control Permit Fee Schedules" that was filed on April 13, 1992 and became effective on April 13, 1992.

§47-26-2. Definitions.

2.1. "Activity" means an activity for which a permit is required pursuant to the provisions of W. Va. Code §22-11-8.

2.2. "Average Discharge Volume" or "ADV" means:

2.2.a. For a State water pollution control permit, the flow reported on the permit application.

2.2.b. For a national pollutant discharge elimination system permit for industrial wastes or for other wastes, the sum of the average flows reported on the permit application, as described in 47CSR10, paragraph 4.4.b.3.

2.2.c. For a national pollutant discharge elimination system permit for sewage, the design flow reported on the permit application.

2.3. "Chief" means the chief of the Office of Water Resources of the Division of Environmental



## Protection of the West Virginia Bureau of Environment.

2.4. "Closed System Facility" means a facility that is required by effluent limitation guidelines or other statutory or regulatory mandates to maintain no discharge or to maintain a recycle system or that otherwise maintains a closed system.

2.5. "Customer" means a person who is provided wastewater disposal services from a facility permitted under W. Va. Code 22-11. For the purpose of these regulations, commercial customers and residential customers other than single family dwellings (e.g., apartment complexes, trailer parks) shall be translated into customer equivalents by dividing their total daily estimated volume of wastewater by three hundred and fifty gallons per day (350 gpd).

2.6. "Existing Facility" means a facility for which a State water pollution control permit or a national pollutant discharge elimination system permit has been previously issued by the chief.

2.7. "Facility" means any plant, means, system, disposal field, lagoon, pumping station, constructed drainage ditch, surface water intercepting ditch, diversion ditch above or below the surface of the ground, settling tank or pond, earthen pit, incinerator, solid waste facility, or other works that is installed for the purpose of treating, neutralizing, stabilizing, holding, disposing, or controlling the quality and rate of flow of sewage, industrial wastes, or other wastes.

2.8. "Industrial Wastes" means any liquid, gaseous, solid, or other waste substance, or a combination thereof, resulting from or incidental to any process of industry, manufacturing, trade, or business, or from or incidental to the development, processing, or recovery of any natural resources. The term "industrial wastes" includes the admixture of industrial wastes with sewage or other wastes.

2.9. "Major Facility" means a facility or activity classified as a major facility by the Regional Administrator of the United States Environmental Protection Agency for Region III in joint consultation with the chief.

2.10. "Major Modification" means a modification of an issued permit made in accordance with the provisions of 47CSR10, subdivision 9.2.b.

2.11. "Minor Construction Activity" means any activity which disturbs an area equal to one acre of land but less than three acres.

2.112. "Minor Modification" means a modification of an issued permit made in accordance with the provisions of 47CSR10, subdivision 9.2.a.

2.123. "Minor POTW" means a POTW that is not a major facility.

2.134. "New Facility" means a facility for which a State water pollution control permit or a national pollutant discharge elimination system permit has not been issued previously by the chief. This definition includes a new entity at a site for which a previous entity may have held a water pollution control permit or a national pollutant discharge elimination system permit.

1.145. "Other Wastes" means garbage; refuse; decayed wood, sawdust, shavings, bark and other wood debris and residues resulting from secondary processing; sand; lime; cinders; ashes;

offal; night soil; silt; oil; tar; dyestuffs; acids; chemicals; heat; and all other materials and substances that are not, by definition, sewage or industrial wastes which may cause or might reasonably be expected to

cause or to contribute to the pollution of any of the waters of the State.

2.156. "Permit" means a State water pollution control permit or a national pollutant discharge elimination system permit issued by the chief.

2.167. "Person" means:

2.167.a. Any industrial user, public or private corporation, institution, association, firm, or company organized or existing under the laws of this or any other state or country;

2.167.b. The State of West Virginia;

2.167.c. Any governmental agency, including federal facilities;

2.167.d. Any political subdivision of this State, including a county commission, municipality, sanitary district, public service district, drainage district, soil conservation district, or watershed improvement district;

2.167.e. Any partnership, trust, or estate;

2.167.f. Any person or individual;

2.167.g. Any group of persons or individuals acting individually or as a group; or

2.167.h. Any other legal entity.

2.178. "Primary Industrial Category" means any industry category listed in Appendix A of 40C.F.R. Part 122.

2.189. "Priority Pollutant" means any substance listed in 40 C.F.R. 401.15.

2.1920. "Publicly-Owned Treatment Works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality as defined by section 502(4) of the Clean Water Act. This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

2.201. "Secondary Industrial Category" means any industry category not listed in Appendix A of 40 C.F.R. Part 122.

2.212. "Sewage" means water-carried human or animal wastes from residences, buildings, industrial establishments, or other places together with such groundwater infiltration and surface waters as they may be present.

1.223. "Solid Waste Facility" means any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste including landfills, transfer stations, incinerators, resource recovery facilities, recycling

facilities, and other such facilities not herein specified, provided, that a "Closed Solid Waste Facility" shall mean a 'solid waste facility' as defined herein which no longer accepts solid waste for disposal, but

must still maintain a permit.

2.234. "Toxic Chemical" means:

2.234.a. Any substance listed in Table V of 33CSR20;

2.234.b. Any substance listed in Table VI of 33CSR20;

2.234.c. Any substance listed in 40 C.F.R. §116.4;

2.234.d. Any substance listed in 40 C.F.R. §302.4;

2.234.e. Any substance listed in 40 C.F.R. §372.65;

2.234.f. Any substance listed in 40 C.F.R. 712.30 or 40 C.F.R. §716.120; or

2.234.g. Any substance for which replicated test data exist to indicate that exposure to that substance poses a risk of injury to human health or the environment.

**§47-26-3. Fee Assessment and Collection.**

3.1. Assessment of Permit Application Fees. Any person who applies for a permit shall pay the appropriate permit application fee in accordance with the provisions of sections 4 through 6 of this rule.

3.2. Assessment of Annual Permit Fees. Any person who holds a permit shall pay an annual permit fee in accordance with the provisions of section 7 of this rule.

3.3. Method of Fee Payment. All fees assessed under this rule shall be submitted to the chief by check or money order payable to the West Virginia Division of Environmental Protection, Office of Water Resources.

3.4. Collection of Permit Application Fees. The permit application fee shall be submitted to the chief with the permit application. No permit application will be processed until the appropriate fee has been received by the chief.

3.4.a. A person may seek verification of the correct amount of a permit application fee by submitting his calculation of the fee to the chief in writing. This calculation shall be submitted sufficiently in advance of the permit application so that the provisions of 47CSR10 subsection 4.3 are met. Within thirty (30) days of the receipt of this calculation, the chief shall notify the applicant of the accuracy of his calculation. If the applicant's calculation is incorrect, the chief shall advise him of the correct amount to be submitted as the permit application fee.

3.4.b. If the chief determines that a submitted application is incomplete and must be returned to the applicant for additional information, the permit application resubmission fee shall accompany the refiled application. This fee shall be either a sum equivalent to five percent (5%) of the permit application fee or one hundred dollars (\$100), whichever is greater.

3.5. Collection of Annual Permit Fees. The annual permit fee shall be submitted to the chief by no later than the anniversary of the date of permit issuance in each year of the term of the permit

3.5.a. A permit will become void if the annual permit fee has not been paid within ninety (90) days of the due date.

3.5.b. A permit will not be reissued until all annual permit fees due during the term of that permit have been paid in full.

3.5.c. A permit will not be issued to an entity at a new location, until all annual permit fees due during the term of any permit held at any previous location by that entity have been paid in full.

3.5.d. A permit will not be transferred for a facility which has failed to pay all annual permit fees due during the term of the permit.

#### **§47-26-4. Initial Permit Application Fees.**

4.1. Fee Calculation. Except as provided in subsections 4.2 through 4.45 of this rule all initial permit application fees shall be calculated through the use of the following formula: the initial permit application fee shall equal the volume fee multiplied by the facility factor multiplied by the waste factor (i.e., Initial Permit Application Fee = Volume Fee X Facility Factor X Waste Factor).

4.1.a. The appropriate volume fee shall be determined through the use of the "New Facility" column of Table A of this rule.

4.1.b. The appropriate facility factor shall be determined through the use of Table B of this rule.

4.1.c. The appropriate waste factor shall be determined through the use of Table C of this rule.

4.2. Publicly-Owned Treatment Works. The initial permit application fee for a POTW that operates a collection system only shall be two thousand five hundred dollars (\$2,500).

#### **4.3. Closed System Facilities.**

4.3.a. The initial permit application fee for a closed system facility where priority pollutants or toxic chemicals are present in the system shall be fifteen thousand dollars (\$15,000).

4.3.b. The initial permit application fee for a closed system facility where no priority pollutants or toxic chemicals are present in the system shall be seven hundred dollars (\$700).

4.4. Solid Waste Facilities. The initial permit application fee for a solid waste facility shall be set and collected in accordance with the provisions of 33CSR1.

4.5. Minor Construction Activities. The initial permit fee for a minor construction activity requiring a permit shall be three hundred dollars (\$300).

#### **§47-26-5. Permit Renewal Application Fees.**

5.1. Fee Calculation. Except as provided in subsections 5.2 through 5.4 of this rule all permit renewal application fees shall be calculated through the use of the following formula: the permit renewal

application fee shall equal the volume fee multiplied by the facility factor multiplied by the waste factor (i.e., Permit Renewal Application Fee = Volume Fee X Facility Factor X Waste Factor).

5.1.a. The appropriate volume fee shall be determined through the use of the "Existing Facility" column of Table A of this rule.

5.1.b. The appropriate facility factor shall be determined through the use of Table B of this rule.

5.1.c. The appropriate waste factor shall be determined through the use of Table C of this rule.

5.2. Publicly-Owned Treatment Works. The permit renewal application fee for a POTW that operates a collection system only shall be one thousand dollars (\$1,000).

5.3. Closed System Facilities.

5.3.a. The permit renewal application fee for a closed system facility where priority pollutants or toxic chemicals are present in the system shall be five thousand dollars (\$5,000).

5.3.b. The permit renewal application fee for a closed system facility where no priority pollutants or toxic chemicals are present in the system shall be three hundred fifty dollars (\$350).

5.4. Solid Waste Facilities. The permit renewal application fee for a solid waste facility shall be set and collected in accordance with the provisions of 33CSR1.

#### **§47-26-6. Permit Modification Application Fees.**

6.1. Fee Calculation. Except as provided in subsections 6.2 through 6.6 of this rule, all permit modification application fees shall be calculated through the use of the following formula: the permit modification application fee shall equal the volume fee multiplied by the facility factor multiplied by the waste factor (i.e., Permit Modification Application Fee = Volume Fee X Facility Factor X Waste Factor).

6.1.a. The appropriate volume fee shall be determined through the use of the "Existing Facility" column of Table A of this rule. Only the discharge volume of the activity affected by the modification shall be used in determining the appropriate volume fee.

6.1.b. The appropriate facility factor shall be determined through the use of Table B of this rule.

6.1.c. The appropriate waste factor shall be determined through the use of Table C of this rule.

6.2. Publicly-Owned Treatment Works.

6.2.a. The permit modification application fee for a POTW that operates a collection system only shall be ten percent (10%) of the initial permit application fee for an application seeking a major modification.

6.2.b. The permit modification application fee for a POTW that operates a collection system only shall be two percent (2%) of the initial permit application fee or fifty dollars (\$50), whichever is greater, for an application seeking a minor modification.

6.3. Closed System Facilities.

6.3.a. The permit modification application fee for a closed system facility shall be ten percent (10%) of the initial permit application fee for an application seeking a major modification.

6.3.b. The permit modification application fee for a closed system facility shall be two percent (2%) of the initial permit application fee or one hundred dollars (\$100), whichever is greater, for an application seeking a minor modification.

6.4. Solid Waste Facilities. The permit modification application fee for a solid waste facility shall be set and collected in accordance with the provisions of 33CSR1.

6.5. Non-Volume-Related Major Modifications. Except as provided in subsections 6.2 through 6.4 of this rule, the permit modification application fee shall be ten percent (10%) of the initial permit application fee for sewage facilities and ten percent (10%) of the initial permit application fee, or five hundred dollars (\$500) whichever is greater for industrial facilities for an application seeking a major modification where no discharge volume is involved.

6.6. Non-Volume-Related Minor Modifications. Except as provided in subsections 6.2 through 6.4 of this rule, the permit modification application fee shall be fifty dollars (\$50) for sewage only facilities and one hundred dollars (\$100) for industrial facilities for an application seeking a minor modification where no discharge volume is involved.

#### §47-26-7. Annual Permit Fees.

7.1. Facilities Discharging Sewage. The annual permit fee for a facility that discharges sewage shall be determined through the use of Table D of this rule.

7.2. Facilities Discharging Industrial Wastes or Other Wastes. The annual permit fee for a facility that discharges industrial wastes or other wastes shall be determined through the use of Table E of this rule.

7.3. Publicly-Owned Treatment Works. The annual permit fee for a POTW that operates a collection system only shall be determined through the use of Table D of this rule.

#### 7.4. Closed System Facilities.

7.4.a. The annual permit fee for a closed system facility where priority pollutants or toxic chemicals are present in the system shall be five thousand dollars (\$5,000): Provided, That if the chief determines that a facility is in substantial compliance with its existing permit, the fee is two thousand five hundred dollars (\$2,500).

7.4.b. The annual permit fee for a closed system facility where no priority pollutants or toxic chemicals are present in the system shall be one hundred dollars (\$100).

7.5. Solid Waste Facilities. The annual permit fee for a solid waste facility shall be five thousand dollars (\$5,000).

7.6. Facilities Discharging Stormwater. The annual permit fee for a facility that discharges stormwater only shall be determined through the use of Table F of this rule.

7.7. Aquaculture facilities. The annual permit fees for aquaculture facilities that are subject to the

provisions of the water pollution control regulations shall be determined by Table G of this rule.

TABLE A

Industrial Wastes Only

Average Discharge Volume (gallons per day)	Volume Fees	
	Existing Facility Volume Fee	New Facility Volume Fee
less than 1,001	\$100	\$400
1,001 to 5,000	\$200	\$600
5,001 to 50,000	\$300	\$1,000
50,001 to 100,000	\$400	\$1,200
greater than 100,000	\$500	\$1,500

Sewage Only

Average Discharge Volume (gallons per day)	Volume Fees	
	Existing Facility Volume Fee	New Facility Volume Fee
less than 1,001	\$50	\$200
1,001 to 5,000	\$100	\$300
5,001 to 50,000	\$150	\$500
50,001 to 100,000	\$200	\$600
greater than 100,000	\$250	\$750

Note: Stormwater runoff shall be included when calculating the average discharge volume of a facility that discharges industrial waste or other waste. Calculations of the average discharge volume for stormwater runoff shall be made in accordance with the provisions of Appendix A of these rules.



**TABLE B**  
**Facility Factors**

Type of Facility	Facility Factor
Major Facility	5.0
Primary Industry Category (except Auto and Other Laundries)	5.0
Secondary Industry Category	3.0
Water Plants	3.0
Minor POTWs	2.0
Auto and Other Laundries Category	1.0
Facility covered under a General Permit	0.9
All other facilities and activities	1.0
Home Aeration Units Replacing Failing Septic Systems	0.45

**TABLE C**  
**Waste Factors**

<b>Type of Waste</b>	<b>Waste Factor</b>
Process Waste	2.0
Sewage	1.7
Contact Cooling Water	1.5
Contaminated Stormwater	1.3
Blowdowns	1.1
Once-Through Cooling Water With Additives	1.1
Once-Through Cooling Water Without Additives	1.0
Uncontaminated Stormwater	1.0
Other Waste	1.0

Note: When an industrial facility discharges more than one type of waste, the highest applicable waste factor shall be used in the calculation of the permit application fee.

TABLE D  
Annual Permit Fees For  
Facilities Discharging Sewage

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Number of Customers	Annual Permit Fee
less than 100	\$50
100 to 499	\$100
500 to 999	\$250
1,000 to 1,499	\$500
1,500 to 1,999	\$750
2,000 to 2,499	\$1,000
2,500 to 2,999	\$1,250
3,000 to 3,499	\$1,500
3,500 to 3,999	\$1,750
4,000 to 4,499	\$2,000
4,500 to 4,999	\$2,250
greater than 5,000	\$2,500

TABLE E

**Annual Permit Fees For Facilities Discharging  
Industrial Wastes Other Wastes**

<b>Average Discharge Volume (gallons per day)</b>	<b>Annual Permit Fee</b>
less than 1,001	\$100
1,001 to 2,500	\$250
2,501 to 5,000	\$500
5,001 to 10,000	\$1,000
10,001 to 15,000	\$1,500
15,001 to 50,000	\$2,000
greater than 50,000	\$5,000

TABLE F

**Schedule of Annual Permit Fees for  
Facilities Discharging Stormwater**

<b>Average Discharge Volume (gallons per day)</b>	<b>Annual Permit Fee</b>
less than 5,001	\$100
5,001 to 15,000	\$250
15,001 to 50,000	\$500
50,001 to 100,000	\$1,000
greater than 100,000	\$1,500

TABLE G

Schedule of Annual Permit Fees For  
Aquaculture Facilities

# Feed/Month	Annual Fee	Application Fee (Initial and Reissuance)
5,000 to 9,999	\$ 250	\$ 250
10,000 to 14,999	\$ 500	\$ 250
15,000 to 19,999	\$ 750	\$ 250
20,000 to 24,999	\$1,000	\$ 250
25,000 to 29,999	\$1,250	\$ 250
greater than 30,000	\$1,750	\$ 250

APPENDIX A

Calculation of the Average  
Discharge Volume for Stormwater Runoff

The following formula shall be used to determine the average discharge volume for stormwater runoff:

$$\text{Average Discharge Volume for Stormwater Runoff (gallons per day)} = \frac{\text{Annual Stormwater Runoff Volume}}{366 \text{ days per year}}$$

where Annual Stormwater Runoff Volume (gallons) =

$$\begin{matrix} \text{Annual} & & \text{Drainage} & & 7.48 & & & & \\ \text{Rainfall} & & \text{Area} & & \text{gallons} & & & & \\ \text{Coefficient} & \times & & \times & & \times & \text{R} & \text{u} & \text{n} & \text{o} & \text{f} & \text{f} \\ \text{(ft/yr)} & & \text{(ft-sq)} & & \text{per ft-cu} & & & & & & & \end{matrix}$$

where the Runoff Coefficient shall be  
0.90 for areas covered by concrete or asphalt  
and 0.25 for areas covered by vegetation.

Note: An alternative method of stormwater runoff calculation may be substituted for this formula upon approval from the chief.

□  
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Water Pollution Control Permit Fee Schedule (47 CSR, Series 26)

Type of Rule:  Legislative     Interpretive     Procedural

Agency: Department of Environmental Protection-Division of Water Resources

Address: 1201 Greenbrier Street

Charleston, West Virginia 25311

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$600,000			\$600,000	\$600,000
PERSONAL SERVICES	\$411,000			\$411,000	\$411,000
CURRENT EXPENSE	\$185,400			\$185,400	\$185,400
REPAIRS & ALTERATIONS	\$3,600			\$3,600	\$3,600
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

The proposed rule will generate approximately \$600,000 as a result of permit and annual fees assessed to fund the new federal permitting requirements. The agency anticipates reviewing and processing 1,900 to 2,000 new permit applications resulting from the new federal requirements requiring the need for additional personnel.

3. Objectives of These Rules:

The objective of the rule is to calculate a fee to be paid by new permittees which will off-set administrative costs associated with the new and expanded federal permitting requirements and resulting changes to the state program.

Rule Title: Water Pollution Control Permit Fee Schedule (47 CSR, Series 26)

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

The rule will provide funding to assure compliance with new federal permitting requirements and provide service to the public via the processing and review of permit applications. Anticipated revenues will be used to comply with the new federal permitting requirements.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: Projects which will disturb one acre of land but less than three and which require a permit from the state as mandated by the new federal requirements will be required to pay an application fee and subsequent annual fee.

C. Economic Impact on Citizens/Public at Large.

Same as 4.B.

Date: June 25, 2002

Signature of Agency Head or Authorized Representative:

*Alfred Turner*