

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

Form #1

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: WV Department of Environmental Protection (Water Resources) TITLE NUMBER: 47

RULE TYPE: Legislative CITE AUTHORITY: §22-11-4(a)(16)

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 26

TITLE OF RULE BEING AMENDED: Water Pollution Control Permit Fee Schedule

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

DATE OF PUBLIC HEARING: July 16, 2003 TIME: 7:00 p.m.

LOCATION OF PUBLIC HEARING: West Virginia Department of Environmental Protection - 10 McJunkin Road - Nitro, WV
25143 - Training Room.

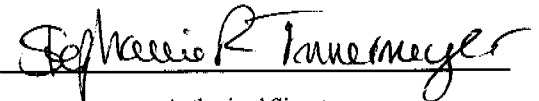
COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH X
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS:

WVDEP - Div. of Water and Waste
Management - 1201 Greenbrier Street -
Charleston, WV 25311 - ATTN: Bill Brannon

The Department requests that persons wishing to make
comments at the hearing make an effort to submit written
comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



Authorized Signature

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BRIEFING DOCUMENT

RULE TITLE: Water Pollution Control Permit Fee Schedule (47CSR 26)

A. AUTHORITY: W.Va. Code § 22-11-4(a)(16)

B. SUMMARY OF RULE:

The proposed amendment to the Water Pollution Control Permit Fee Schedule increases fees charged to municipal publicly-owned treatment works (POTWs) by 50%.

C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

The increased revenue will support two additional full-time equivalents (FTEs) at the Division of Water and Waste Management (DWWM) to assist compliance by municipalities with existing and emerging federal and state requirements associated with combined sewer overflows, wet weather issues, and the recently issued Municipal Separate Storm Sewer System (MS4) permit.

DWWM obtains the majority of its financial support from the assessment of permit application and annual fees charged to wastewater dischargers. In 1999, the West Virginia Legislature approved a doubling of the fees charged to industrial dischargers to provide additional resources to the agency to facilitate improvements in the permits issuance process. Municipal (non-industrial) dischargers were exempted from the increase. Subsequent revenues generated have enabled the agency to significantly reduce backlogged permits, improve permit issuance efficiencies and support improvements in electronic permitting.

While the overall permitting process has benefited, DWWM finds itself devoting increased staff resources to municipal permitting issues as new state and federal requirements are initiated. Since these new initiatives are predominantly applicable to POTWs, this rule proposes to increase fees to those POTWs to provide additional staff to assist with compliance. Currently fees generated by non-industrial dischargers account for approximately 20% of all fees collected with industrial facilities providing 80%. The 50% POTW fee increase will provide additional support for POTWs which otherwise is not currently available.

D. FEDERAL COUNTERPART REGULATIONS -INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:

The proposed amendment to the rule has no federal counterpart regulation.

E. CONSTITUTIONAL TAKINGS DETERMINATION:

In accordance with West Virginia Code Sections 22-1A-1 and 3(c), 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.

F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:

At its June 3, 2003 meeting, the Environmental Protection Advisory Council reviewed and discussed this proposed rule. The Council's comments are contained in the attached minutes.



**Advisory Council Meeting
Minutes
June 3, 2003**

Attendees:

Rick Roberts, Advisory Council Member	John Benedict, WVDEP
Larry Harris, Advisory Council Member	Lucy Pontiveros, WVDEP
Bill Raney, Advisory Council Member	Jim Mason, WVDEP
Lisa Dooley, Advisory Council Member	Allyn Turner, WVDEP
Jackie Hallinan, Advisory Council Member	Bill Brannon, WVDEP
Stephanie R. Timmermeyer, WVDEP	Mike Dorsey, WVDEP
Joseph M. Dawley, WVDEP	Mike Zeto, WVDEP
Karen G. Watson, WVDEP	Pam Nixon, WVDEP
Jessica Greathouse, WVDEP	Lewis Halstead, WVDEP
Cathy Marcum, Tinney Law Firm	Charlie Sturey, WVDEP

The meeting was called to order at 9:15 a.m. by Joseph M. Dawley, General Counsel for the West Virginia Department of Environmental Protection.

PRESENTATION OF PROPOSED RULES FOR THE 2004 LEGISLATIVE SESSION

Division of Air Quality

John Benedict, Director of DAQ presented the following rules:

45CSR1 - No_x Trading Program as a means of control and reduction of nitrogen oxides from non-electric generating units.

Bill Raney inquired about 45CSR1 and wanted to know how this rule had been lost in the shuffle during the 2003 session? Jim Mason explained that the delay was from a legislative clerical error.

Jackie Hallinan asked what would happen if there were additional clerical errors like what happened during this legislative session? John Benedict responded it would not present a serious problem, he thought the agency could work the matter out with the EPA

45CSR15- Emission standards for hazardous air pollutants pursuant to 40 CFR Part 61.

DEP Advisory Council Minutes

June 6, 2003

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- 45CSR 16 - Standards of performance for new stationary sources pursuant to 40 CFR part 60
- 45CSR25 - To prevent and control air pollution from hazardous waste treatment, storage, or disposal facilities
- 45CSR34 - Emission standards for hazardous air pollutants for sources categories pursuant to 40 CFR Part 63
- 45CSR36 - Requirements for determining conformity of transportation plans, program, and projects developed, funded or approved under title 23 U.S.C. or the federal transit laws, to applicable air quality implementation plans (transportation Conformity)

Rick Roberts questioned how the rule relates to “political subdivisions?” John Benedict explained that DAQ prepares emission budgets and works with Metropolitan Planning Organizations. He also said that the Memorandums of Understanding (MOU) with these organizations will no longer be appended to rule 45CSR36.

Rick Roberts also asked if the rule only addresses emissions from vehicles? John Benedict answered yes.

General Air Rule Questions:

Larry Harris asked if the rules include emission limits? John responded the rules incorporate by reference the emission limitations contained in federal regulations.

Bill Raney asked if the air rules contained anything different from the federal counterpart regulations? John responded they do not.

Although not a Rulemaking issue, Larry Harris stated that he had recently reviewed a agency letter regarding Longview Power and its proposed SO₂ emissions and inquired on the environmental impacts of this facility.

John Benedict said that the facility is going to be a “state of the art” facility and there will be a 95-98% reduction in emissions.

Division of Water and Waste Management

Bill Brannon, Assistant Director, presented the following rule:

47CSR26 - Water pollution control permit fee schedules.

Rick Roberts asked if the 50% increase in fees would be used to provide direct assistance to municipalities or would it be used only for agency paperwork?

Bill Brannon responded that the 50% fee increase will provide additional support for municipalities which otherwise is not currently available and that there will probably be a mixture of direct assistance and paperwork provided by the two additional FTE's paid for by the 50% fee increase.

Lisa Dooley stated she shares many of the same concerns that Mr. Roberts expressed and that she believes municipalities have to pass along fee increases to the public and for that reason her organization may not support the rule.

Bill Raney wanted to know if this was the first time this was proposed?
Bill Brannon informed him that this was the first official time that the fee increase was proposed.

Bill Raney along with Lisa Dooley and Jackie Hallinan believe that rule information should be sent to them sooner so they can get this information to their constituents for comments.

Mike Dorsey, Assistant Director presented the following rules:

33CSR20 - Hazardous Waste Management

No comments by the advisory committee.

33CSR1 - Solid Waste Management Rule

Lisa Dooley wanted to know if the only change being made to Class D Permits are to limit expansion of the facilities. Mike Dorsey replied that the changes do limit the siting of these facilities.

Jackie Hallinan asked what recourse a person would have to object to the

cost of a background investigation. Mike Dorsey replied the person could appeal to the Environmental Quality Board.

Lisa Dooley wanted Mike Dorsey to describe the sewage sludge provisions. Mike said the revisions recognize that there other types of sludge that are as beneficial as sewage sludge.

Division of Mining and Reclamation

Lewis Halstead, Assistant Director presented the following rule:

47CSR30 - WV/NPDES Rules for Coal Mining Facilities

Bill Raney wanted to know the number of Inspectors and Inspectible units.

DEP will provide Mr. Raney with this information.

38CSR2 - West Virginia Surface Mining Reclamation Rule

Rick Roberts asked if the revisions would relax the compaction requirements in all cases or just for the forestry use.

Bill Raney asked what is going to happen to the incidental coal provision

Lewis Halstead responded it will be available for government financed projects. Other projects will have to get a full permit.

Bill Raney asked why is the agency revising the forestry requirement? Is there a problem with the exciting requirements?

Lewis Halstead responded the agency is trying to improve forestry land use.

Bill Raney also asked why companies are being required to use these new forestry provisions when they are using alternative materials?

Lewis Halstead responded the faster the company established a canopy of trees the better, it would be.

Bill Raney also request concern about the maximum bond on contemporaneous reclamation and why is it necessary. Bill Raney stated OSM does not have a contemporaneous reclamation standard. Charlie Sturey responded OSM never

approved the deletion of this language and so the agency proposes to keep it in the rule.

Bill Raney asked about the proposed changes in inspection frequency for revoked permits?

Lewis Halstead responded OSM has certain criteria for inspections to identify if there are any health & safety issues. He also said that the rule tracks the federal counterpart regulation with regard to public notice procedures.

Larry Harris made a general comment about valley fills, he was opposed to filling in the headwaters on streams, especially trout streams.

Larry Harris asked if we have any idea of the number of streams impacted?

Lewis Halstead responded the recent Environmental Impact Statement (EIS) stated there are currently 724 miles impacted by valley fills.

Larry Harris wanted to know if DEP is monitoring to see what impacts there are downstream waters and express that there are long range-cumulative affects on such waters.

Rick Roberts asked about OSM's role in the program.

Lewis Halstead said OSM has alternate oversight program and referred to a court ruling that said the state could not implement it's rules until OSM approves them.

Other Business

Bill Raney inquired if the agency was suppose to be doing a annual report for the council. Secretary Timmermeyer stated that a report is required and that the DEP would assist the council with its efforts.

Bill Raney also asked if there is a way to keep the council informed of amendments to the rules made later in the process.

Joe Dawley responded that the agency would try to keep the council informed of any amendments at its quarterly meetings.

Jackie Hallinan stated that the DEP has had numerous leaders in the past - she feels that DEP could utilize the advisory council members more.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Water Pollution Control Permit Fee Schedules

Type of Rule: X Legislative Interpretive Procedural

Agency: WV Department of Environmental Protection
Division of Water and Waste Management

Address: 1201 Greenbrier Street
Charleston, WV 25311

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$130,000	\$0	\$130,000	\$130,000	\$130,000
PERSONAL SERVICES	\$121,500		\$0	\$121,500	\$121,500
CURRENT EXPENSE	\$8,500			\$8,500	\$8,500
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

The increased fees will support salaries and current expenses for two permit personnel to provide additional support to Publicly Owned Treatment Works (POTWs).

3. Objectives of these rules:

The modified fees represent a 50% increase to existing fees under the current schedule. Additional technical support will be provided to POTWs to assist compliance with new state and federal requirements (CSOs, MS4, SSOs).

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

Assistance to municipalities for compliance with new federal and state permitting requirements is hampered by lack of permit staff. The proposed increase will enable the agency to hire additional staff to assist municipalities with new requirements associated with CSOs, MS4, wet weather issues and other emerging issues.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

Municipal POTW permit fees will increase by 50% from what is currently assessed.

C. Economic Impact on Citizens/Public at Large:

For the public served by the municipalities subject to the fee increase a slight increase in sewage rates may occur.

Date: May 28, 2003

Signature of Agency Head or Authorized Representative:

FILED

TITLE 47
LEGISLATIVE RULE
BUREAU OF ENVIRONMENT
DIVISION DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF WATER RESOURCES
DIVISION OF WATER AND WASTE MANAGEMENT

2003 JUN 11 A 9:44
OFFICE WEST 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 director ~~chief~~ of the Division Office ~~of Water Resources and Waste Management~~. This rule applies to any person who is required to apply for and obtain a permit from the director ~~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. -- ~~April 25, 2003~~.

1.4. Effective Date. -- ~~April 25, 2003~~.

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.

§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.

~~2.3.2.5.~~ "Director" "Chief" means the director ~~chief~~ of the Division Office of Water Resources and Waste Management of the Department of Environmental Protection.

~~2.4.2.3.~~ "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.

~~2.5.2.4.~~ "Customer" means a person who is provided wastewater disposal services from a facility permitted under W. Va. Code §22-11-8. For the purpose of this rule, 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 or greater than one acre of land but less than three acres.

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

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

2.14. "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.

2.15. "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.

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

2.17. "Person" means:

2.17.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;

2.17.b. The State of West Virginia;

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

2.17.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;

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

2.17.f. Any person or individual;

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

2.17.h. Any other legal entity.

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

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

2.20. "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 at 33 U.S.C. §1251 et seq. This definition includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

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

2.22. "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.

2.23. "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.

2.24. "Toxic Chemical" means:

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

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

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

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

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

2.24.f. Any substance listed in 40 C.F.R.

§712.30 or 40 C.F.R. §716.120; or

2.24.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 must 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 must 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 must be submitted to the chief by check or money order payable to the West Virginia Department Division of Environmental Protection, Division Office of Water and Waste Management. Resources:

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

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

3.4.b. If the director chief determines that a submitted application is incomplete and must be returned to the applicant for additional

information, the permit application resubmission fee must accompany the refiled application. This fee will 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 must be submitted to the director 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 4.5. 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 will be determined through the use of the "New Facility" column of Table A of this rule.

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

4.1.c. The appropriate waste factor will 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 will be ~~two thousand five hundred three thousand seven hundred and fifty-dollars~~ (\$2,500)(\$3,750).

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 will 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 will be seven hundred dollars (\$700).

4.4. Solid Waste Facilities. The initial permit application fee for a solid waste facility will 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 will 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 will 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 will be determined through the use of the "Existing Facility" column of Table A of this rule.

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

5.1.c. The appropriate waste factor will 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 will 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 will 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 will be three hundred fifty dollars (\$350).

5.4. Solid Waste Facilities. The permit renewal application fee for a solid waste facility will 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 will 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 will 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 will be determined through the use of Table B of this rule.

6.1.c. The appropriate waste factor will 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 will 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 will be two percent (2%) of the initial permit application fee or ~~fifty dollars (\$50)~~ one hundred dollars (\$100), 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 will 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 will 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 will 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 will 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 will be ~~fifty dollars (\$50)~~ one hundred dollars (\$100) 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.

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

§47-26-7. Annual Permit Fees.

7.1. Facilities Discharging Sewage. The annual permit fee for a facility that discharges sewage will 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 will 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 will 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 will 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 will be one hundred dollars (\$100).

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

7.6. Facilities Discharging Stormwater. The annual permit fee for a facility that discharges stormwater only will 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

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 <u>\$300</u>	\$600 <u>\$900</u>
greater than 100,000	\$250 <u>\$375</u>	\$750 <u>\$1,125</u>

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

Type of Waste	Waste Factor
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**

Number of Customers	Annual Permit Fee
less than 100	\$50
<u>100 to 143</u>	<u>\$100</u>
100-144 to 499	\$100 <u>\$150</u>
500 to 999	\$250 <u>\$375</u>
1,000 to 1,499	\$500 <u>\$750</u>
1,500 to 1,999	\$750 <u>\$1,125</u>
2,000 to 2,499	\$1,000 <u>\$1,500</u>
2,500 to 2,999	\$1,250 <u>\$1,875</u>
3,000 to 3,499	\$1,500 <u>\$2,250</u>
3,500 to 3,999	\$1,750 <u>\$2,625</u>
4,000 to 4,499	\$2,000 <u>\$3,000</u>
4,500 to 4,999	\$2,250 <u>\$3,375</u>
greater than 5,000	\$2,500 <u>\$3,750</u>

TABLE E

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

Average Discharge Volume (gallons per day)	Annual Permit Fee
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**

Average Discharge Volume (gallons per day)	Annual Permit Fee
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) =

$$\text{Annual Rainfall (ft/yr)} \times \text{Drainage Area (ft-sq)} \times 7.48 \frac{\text{gallons}}{\text{per ft-cu}} \times \text{Runoff Coefficient}$$

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 director chief.