

**WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW  
DIVISION**

Do Not Mark In This Box

**FILED**

MAY 4 1 38 PM '00

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Div. Environmental Protection-Office of Water Resources TITLE NUMBER: 47

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 HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) HB4223

SECTION 64-3-1-(z), PASSED ON March 11, 2000

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: May 4, 2000

*Carrie J. Chambers*

Authorized Signature



Executive Office  
#10 McJunkin Road  
Nitro, WV 25143-2506  
Telephone No: (304)759-0575  
Fax No: (304)759-0526



---

## West Virginia Bureau of Environment

---

Cecil H. Underwood  
Governor

Michael C. Castle  
Commissioner

May 4, 2000

Ms. Judy Cooper  
Director, Administrative Law  
Division  
Secretary of State's Office  
Capitol Complex  
Charleston, WV 25305

RE: 47CSR26 – "Water Pollution Control Permit Fee Schedules"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule with your office as "Notice of Final Filing and Adoption of a Legislative Rule Authorized by the West Virginia Legislature."

Your cooperation in the above request is very much appreciated. If you should have any questions or require additional information, please call Carrie Chambers in my office at 759-0515.

Sincerely,

Michael C. Castle  
Commissioner

MCC:cc

cc: Jerry Ray  
Carrie Chambers

# **RULE PROMULGATION HISTORY ABSTRACT**

## **TITLE 47 SERIES 26**

### **DIVISION OF ENVIRONMENTAL PROTECTION OFFICE OF WATER RESOURCES Water Pollution Control Permit Fee Schedules**

<b>June 7, 1999</b>	<b>Filed as Emergency Rule</b>
<b>June 17, 1999</b>	<b>Filed for Public Hearing</b>
<b>July 21, 1999</b>	<b>Public Hearing Held</b>
<b>July 28, 1999</b>	<b>Agency Approved Rule Filed with Secretary of State and Legislative Rule-Making Review Committee</b>
<b>March 11, 2000</b>	<b>HB4233 Passed the Legislature</b>
<b>April 3, 2000</b>	<b>HB4233 Signed by Governor</b>
<b>May 4, 2000</b>	<b>Rule Final Filed with Secretary of State</b>
<b>May 4, 2000</b>	<b>Effective Date of Rule</b>

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

**FILED**  
MAY 4 1 38 PM '00  
OFFICE OF 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 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 Modification" means a modification of an issued permit made in accordance with the provisions of 47CSR10, subdivision 9.2.a.

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

2.13. "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.

2.14. "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.

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

2.16. "Person" means:

2.16.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;

2.16.b. The State of West Virginia;

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

2.16.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;

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

2.16.f. Any person or individual;

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

2.16.h. Any other legal entity.

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

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

2.19. "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.

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

2.21. "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.

2.22. "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.

2.23. "Toxic Chemical" means:

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

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

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

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

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

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

2.23.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 4.4 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.

#### §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**

<b>Volume Fees</b>		
<b>Average Discharge Volume (gallons per day)</b>	<b>Existing Facility Volume Fee</b>	<b>New Facility Volume Fee</b>
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

<b>Sewage Only</b>		
<b>Volume Fees</b>		
<b>Average Discharge Volume (gallons per day)</b>	<b>Existing Facility Volume Fee</b>	<b>New Facility Volume Fee</b>
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**

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**

---

<b>Number of Customers</b>	<b>Annual Permit Fee</b>
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**

<b># Feed/Month</b>	<b>Annual Fee</b>	<b>Application Fee (Initial and Reissuance)</b>
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) =

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

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 chief.