

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #1

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2009 JUN 12 PM 2: 23

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE**

AGENCY: DEP - Division of Water & Waste Management TITLE NUMBER: 47

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §22-11-10

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: \_\_\_\_\_

DATE OF PUBLIC HEARING: Thursday, July 16, 2009 TIME: 7:00 p.m.

LOCATION OF PUBLIC HEARING: Coopers Rock Room (Room No. 1203 and 1204)  
WV Department of Environmental Protection  
601 57th Street SE  
Charleston, WV 25304

COMMENTS LIMITED TO: ORAL  WRITTEN  BOTH

DATE WRITTEN COMMENT PERIOD ENDS: July 16, 2009 TIME: 7:30 p.m.


WRITTEN COMMENTS MAY BE MAILED TO:

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.

Public Information Office  
WV Department of Environmental Protection  
601 57th Street SE  
Charleston, WV 25304  
dep.comments@wv.gov

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 Schedules”, 47CSR26

**A. AUTHORITY:**

W.Va. Code 22-11-10

**B. SUMMARY OF RULE:**

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 Division of Water and Waste Management. 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.

**C. STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:**

The proposed revisions to the Water Pollution Control Permit Fee Schedules of Title 47, Series 26 reflect the need to incorporate the permit application fees, permit renewal application fees, permit modification fees and the annual permit fees for the new Concentrated Animal Feeding Operation (CAFO) NPDES permit category into the permit fee schedules.

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

There is no federal counterpart regulation; thus, no determination of stringency is required.

**E. CONSTITUTIONAL TAKINGS DETERMINATION:**

In accordance with §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 West Virginia and the United States of America.

**F. CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:**

At its meeting on June 3, 2009, the Environmental Protection Advisory Council discussed this rule. (See attached minutes for Council’s discussion.)

# West Virginia Department of Environmental Protection

## ADVISORY COUNCIL MEETING MINUTES

Wednesday, June 3, 2009  
601 57th Street, SE, Charleston, West Virginia  
West Virginia Room – 3rd Floor

### IN ATTENDANCE:

#### *Members of the Council:*

Lisa Dooley  
Jackie Hallinan  
Larry Harris  
Karen Price  
Bill Raney  
Rick Roberts

#### *DEP:*

Raymond Franks II	General Counsel
Kristin Boggs	Associate General Counsel
Kathy Cosco	Chief Communications Officer
Tom Clarke	Director, Division of Mining & Reclamation
James Martin	Chief, Office of Oil & Gas
Robert Bates	Division of Water & Waste Management
Bill Brannon	Division of Water & Waste Management
Carroll Cather	Division of Water & Waste Management
Ellen Herndon	Division of Water & Waste Management
Jeff Knepper	Division of Water & Waste Management
Teresa Koon	Division of Water & Waste Management
Sudhir Patel	Division of Water & Waste Management
Yogesh Patel	Division of Water & Waste Management
Bill Timmermeyer	Division of Water & Waste Management
Ken Politan	Division of Mining & Reclamation
Jim Mason	Division of Air Quality

#### *Others:*

Don Garvin	Interested Citizen
Steve Hannah	Interested Citizen
Dave Yaussy	Interested Citizen

## **OLD BUSINESS:**

Raymond Franks called the meeting to order at 1:45 p.m. Mr. Franks noted that two members of the Council had pointed out a minor discrepancy in the April minutes as circulated, and that for expediency's sake the error would be corrected following the meeting and the April and June minutes each moved for approval at the September meeting.

Mr. Franks provided to the Council information it had requested at the April meeting regarding ongoing projects in the Office of Abandoned Mine Lands and recruiting potential for environmental inspectors. The Council agreed to review the information and discuss it in more detail at the September meeting.

## **NEW BUSINESS:**

Mr. Franks turned the meeting over to Kristin Boggs for presentation and discussion of the 2010 proposed Legislative Rules:

### **DIVISION OF WATER & WASTE MANAGEMENT – WATER RULES**

**47CSR10 – NPDES Rule:** Promulgated last in 2008. The proposed revisions reflect changes made to the Federal rule regarding Concentrated Animal Feeding Operations (CAFOs), which became effective in November 2008. EPA gave DEP two years to revise the State rules and start issuing permits. The revisions include a clarified definition of CAFO, a detailed explanation of the permitting process and the process for permit exemption, and an explanation of the required nutrient management plan. Technical revisions and corrections are made throughout.

**47CSR26 – Water Pollution Control Permit Fee Schedules:** Promulgated last in 2000. The proposed revisions reflect the CAFO changes made in the NPDES Rule. The fees for CAFOs will be as follows: \$300 for the initial application; \$300 for permit renewal; \$50 for permit modification; and \$50 for the annual permit fee. Technical revisions and corrections are made throughout.

**47CSR12 – Requirements re Groundwater Standards:** Promulgated last in 2002. The proposed revisions reflect updates and additions made to EPA's 2006 edition of the Drinking Water Standards & Health Advisories. Technical revisions and corrections are made throughout.

**47CSR59 – Monitoring Well Rule.** Promulgated last in 1994. The proposed revisions add new language to incorporate "high" and "low" risk boreholes, experience requirements for those persons applying for monitoring well driller certificates, recertification and training requirements for monitoring well drillers, and definitions. Technical revisions and corrections are made throughout.

**47CSR60 – Monitoring Well Design Standards.** Promulgated last in 1996. The proposed revisions bring this rule in conformance with the 47CSR59 *Monitoring Well Rule* definition changes, and "high" and "low" borehole requirements. Technical revisions and corrections are made throughout.

## **DIVISION OF WATER & WASTE MANAGEMENT – WASTE MANAGEMENT RULES**

**33CSR1 – *Solid Waste Management Rule:*** Promulgated last in 2006. The proposed revisions include removing the requirement that free day tonnage count toward monthly/daily totals and clarifying the definition of pick-up truck. Technical revisions and corrections are made throughout.

**33CSR20 – *Hazardous Waste Management System:*** Promulgated last in 2009. The proposed rule reflects the annual incorporation-by-reference (IBR) revisions made by DEP to its hazardous waste rule. The proposed revisions include changes to the academic laboratory waste provisions to allow alternative requirements for hazardous waste determination and accumulation of unwanted materials at labs owned by and affiliated with colleges and universities. Other proposed revisions are directed at the hazardous waste code 019 provisions, which expand the exclusion for sludges generated from the chemical conversion coating of aluminum using a zinc phosphating process. The F019 waste code exclusion only applies to the automobile or light truck manufacturing industry. This IBR specifically excludes two federal amendments that are currently undergoing reconsideration by the EPA, *i.e.*, revisions to the definition of solid waste and expansion of RCRA comparable fuel exclusion. Technical revisions and corrections are made throughout.

Mr. Franks asked whether the Council had any questions about the seven DWWM rules. Mr. Raney inquired about the impetus for the change in the monitoring well rules, since they have not been revised in several years. Ms. Boggs responded that the changes in the rules reflect changes in technology and practice over time. There were no further questions from the Council.

## **OFFICE OF OIL AND GAS RULE**

**35CSR4 – *Oil & Gas Wells and Other Wells:*** Promulgated last in 2001. The proposed revisions include updating the permit fees to reflect the 2005 statutory change, clarifying general requirements for pit and impoundment construction, and adding a new section setting forth requirements for constructing pits and impoundments that exceed a certain size. Technical revisions and corrections are made throughout.

Mr. Franks asked whether the Council had any questions about the OOG rule. Dr. Harris expressed concern that the current statutory bond amount may not suffice given the larger pits associated with Marcellus wells. Mr. Martin explained that the bond is a performance bond, not designed to cover any specific area of the well operation. Dr. Harris then asked about protections for surface owners whose water supply is impaired from drilling operations, in response to which Mr. Martin pointed out the statutory and regulatory remedies. There were no further questions from the Council.

## **DIVISION OF MINING & RECLAMATION RULE**

**47CSR30 – *Mining NPDES Rule:*** Promulgated last in 2009. The proposed revisions include deleting the certification language for NPDES maps and decreasing from two years to one the raw mine drainage water quality data required for abandonment of a deep mine. Technical revisions and corrections are made throughout.

Mr. Franks asked whether the Council had any questions about the DMR rule. Ms. Dooley inquired whether the changes were substantive or merely technical. Ms. Boggs explained that although the changes appeared merely technical, they had real-world effects upon licensed professional engineers and surveyors, whom the rule required to swear to the contents of a NPDES map under penalty of perjury. Engineers and surveyors could not obtain insurance for such an oath, because they did not create the maps and were therefore subjecting themselves to criminal penalties for work that was not entirely within their control. There were no further questions from the Council.

#### **DIVISION OF AIR QUALITY RULES**

**45CSR8 – *Ambient Air Quality Standards*:** Promulgated last in 2009. The proposed revisions include deletion of redundant measurement method language for lead and addition of new national primary and secondary ambient air quality standards for lead.

**45CSR14 – *Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration*:** Promulgated last in 2009. The proposed revisions incorporate the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers. Other miscellaneous revisions and corrections are also included, so that the rule comports with federal counterpart language.

**45CSR16 – *Standards of Performance for New Stationary Sources*:** Promulgated last in 2009. The proposed rule reflects the annual IBR revisions to New Source Performance Standards, including Stationary Spark-Ignition Internal Combustion Engines, Fossil Fuel-Fired Steam Generators and Industrial-Commercial-Institutional Steam Generating Units, Stationary Combustion Turbines, Nonroad Spark Ignition Engines, Alternative Work Practice To Detect Leaks From Equipment, Petroleum Refineries and Performance Specification 16 for Predictive Emissions Monitoring Systems, Amendments to Testing and Monitoring Provisions, and Nonmetallic Mineral Processing Plants. The IBR exclusion for the vacated Clean Air Mercury Rule has been removed.

**45CSR19 – *Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution Which Cause or Contribute to Nonattainment*:** Promulgated last in 2005. The proposed revisions incorporate the New Source Review Program for Particulate Matter Less Than 2.5 Micrometers, Reasonable Possibility in Recordkeeping, Ethanol Production Facilities, and 8-Hour Ozone National Ambient Air Quality Standard provisions. Other proposed revisions to the rule remove references to pollution control projects and clean units per the 2005 decision by the United State Court of Appeals for the District of Columbia Circuit that vacated the parallel federal provisions. Other miscellaneous revisions and/or corrections are also included, so that the rule comports with federal counterpart language.

**45CSR25 – *Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities*:** Promulgated last in 2009. The proposed rule reflects the annual IBR revisions to the Hazardous Waste rule.

**45CSR33 – *Acid Rain Provisions and Permits*:** Promulgated last in 2006. The proposed rule

reflects the annual IBR revisions, including Air Pollution Control, Transport of Emissions of Nitrogen Oxide and Sulfur Dioxide; Amendments to Monitoring Provisions; Revisions to Acid Rain Program Rules, and Revisions to the Continuous Monitoring Rule for the Acid Rain Program.

**45CSR34 – *Emission Standards for Hazardous Air Pollutants*:** Promulgated last in 2009. The proposed rule reflects the annual IBR revisions to the Hazardous Air Pollutant rule. Excluded from incorporation by reference are the national emission standards for hazardous air pollutants affecting non-major (area) sources of hazardous air pollutants for Iron and Steel Foundries, Plating and Polishing Operations, Ferroalloys Production Facilities, and Metal Fabrication and Finishing Source Categories.

Mr. Franks asked whether the Council had any questions about the seven DAQ Rules, and there were none.

On general comment, Dr. Harris inquired about water quality standards for mercury, citing a newspaper report that DEP supported less stringent standards based on data that State residents consume relatively fewer fish per capita. Mr. Clarke explained the factual context of the reported quote and the method by which EPA developed the point three (0.3) standard. With respect to the rules presentation, Dr. Harris suggested a return to the practice of providing Council with written summaries of the proposed rules, along with justifications for the proposed changes. The suggestion was well-received.

Mr. Franks then opened the floor to questions from the general public. Don Garvin, Legislative Coordinator for the West Virginia Environmental Council, inquired about acid rain standards, to which Mr. Mason responded that the State's standards with respect to acid rain derive from Title VI of the federal Clean Air Act.

Dr. Harris then asked whether the downturn in the energy market has caused any decrease in the number of permit applications to drill gas wells in the Marcellus Shale. Mr. Martin responded that the economy has had some effect on the number of permit applications overall, and that he could later provide Dr. Harris with more precise statistics.

Mr. Garvin complimented the Agency and the Office of Oil & Gas on finally requiring pits to be lined. Mr. Raney then thanked DEP staff for their hard work on the rules.

With no further comments forthcoming from the Council or public, Mr. Franks reminded everyone that the next meeting is scheduled for Wednesday, September 23, 2009. On motion from Mr. Raney, seconded by Mr. Roberts, Mr. Franks declared the meeting adjourned at 2:45 p.m.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Water Pollution Control Permit Fee Schedules, 47CSR26

Type of Rule:  Legislative  Interpretive  Procedural

Agency: West Virginia Department of Environmental Protection

Address: 601 57th Street, SE  
Charleston, WV 25304

Phone Number: (304) 926-0495 Email: Scott.G.Mandirola@wv.gov

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

No fiscal impacts on state government are anticipated.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: Water Pollution Control Permit Fee Schedules, 47CSR26

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

None anticipated

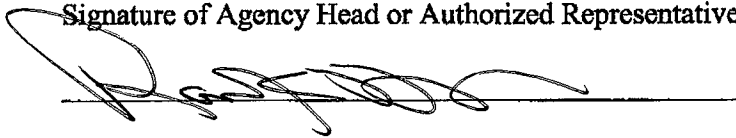
**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The proposed revisions to the Water Pollution Control Permit Fee Schedules of Title 47, Series 26 reflect the need to incorporate the permit application fees, permit renewal application fees, permit modification fees and the annual permit fees from this new NPDES permit category into the permit fee schedules.

Date: June 1, 2009

Signature of Agency Head or Authorized Representative



FILED

2009 JUN 12 PM 2:23

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

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 Chief of the ~~Office~~ Division of Water Resources and Waste Management. 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~~ Former 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" ("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~~ Director of the Division of Water and Waste Management (formerly the Office of Water Resources) of the ~~Division~~ Department of Environmental Protection ~~of the West Virginia Bureau of Environment~~ as designated by the Secretary

thereof.

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 §22-11-1, *et. seq.* 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 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 that 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 40 C.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 that is owned by a state or municipality as defined by §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 ~~III~~ of ~~33CSR20~~ Appendix C of 47CSR26;

2.23.b. Any substance listed in Table VI ~~I~~ of ~~33CSR20~~ Appendix C of 47CSR26;

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~~ Department 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 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 re-filed 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 that 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.

4.5. Concentrated Animal Feeding Operations (CAFOs). The initial permit application fee for a CAFO 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.

5.5. Concentrated Animal Feeding Operations (CAFOs). The permit renewal application fee for a CAFO shall be three hundred dollars (\$300).

**§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.

6.7. Concentrated Animal Feeding Operations (CAFOs). The permit modification fee for a CAFO shall be fifty dollars (\$50) for an application seeking a major or minor modification.

#### **§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 shall be 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 Storm Water. The annual permit fee for a facility that discharges storm water 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.

7.8. Concentrated Animal Feeding Operations (CAFOs). The annual permit fee for a CAFO shall be fifty dollars (\$50).

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

Sewage 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	\$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: Storm water 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 storm water 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 Storm Water	1.3
Blowdowns	1.1
Once-Through Cooling Water With Additives	1.1
Once-Through Cooling Water Without Additives	1.0
Uncontaminated Storm Water	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**

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) =

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

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 storm water runoff calculation may be substituted for this formula upon approval from the chief.