



WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

eFILED

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Office of West Virginia
Secretary Of State

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

AGENCY: Water Resources Division Of Water And Waste
Management

TITLE-SERIES: 47-26

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: WATER POLLUTION CONTROL PERMIT FEE
SCHEDULES

CITE STATUTORY AUTHORITY: W. Va. Code §22-11-10

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB2233

Section §64-3-1(h) Passed On 4/4/2025 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

May 9, 2025

This rule shall terminate and have no further force or effect from the following date:

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jason E Wandling -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 47
LEGISLATIVE RULE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER RESOURCES

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 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 Director 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 09, 2025.

1.4. Effective Date. -- May 09, 2025.

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:

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

2.2.2. 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.

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

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.

2.4. "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 350 gallons per day.

2.5. "Director" means the Director of the Division of Water and Waste Management (formerly the

Office of Water Resources) of the Department of Environmental Protection, as designated by the Secretary thereof.

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 Director.

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 Director.

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 Director. 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 Director.

2.17. "Person" means:

2.17.1. 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;

2.17.2. The State of West Virginia;

2.17.3. Any governmental agency, including federal facilities;

2.17.4. 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;

2.17.5. Any partnership, trust, or estate;

2.17.6. Any person or individual;

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

2.17.8. Any other legal entity.

2.18. "Primary Industrial Category" means any industry category listed in Appendix A of 40 C.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 §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 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:

2.24.1. Any substance listed in Table III, Appendix C of 47CSR10;

2.24.2. Any substance listed in Table V, Appendix C of 47CSR10;

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

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

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

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

2.24.7. 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 Director by check or money order payable to the West Virginia Department of Environmental Protection.

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

3.4.1. 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 in writing. This calculation must be submitted sufficiently in advance of the permit application to meet the provisions of 47CSR10 subsection 4.3. Within 30 days of the receipt of this calculation, the Director shall notify the applicant of the accuracy of his calculation. If the applicant's calculation is incorrect, the Director will advise him or her of the correct amount to be submitted as the permit application fee.

3.4.2. If the Director 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 5% of the permit application fee or \$100, whichever is greater.

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

3.5.1. A permit will become void if the annual permit fee has not been paid within 90 days of the due date.

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

3.5.3. 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.

3.5.4. 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 4.6 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).

4.1.1. The appropriate volume fee will be determined through the use of the "New Facility" column

of Table A of this rule.

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

4.1.3. 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 \$2,500.

4.3. Closed System Facilities.

4.3.1. The initial permit application fee for a closed system facility where priority pollutants or toxic chemicals are present in the system will be \$15,000.

4.3.2. The initial permit application fee for a closed system facility where no priority pollutants or toxic chemicals are present in the system will be \$1,225.

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 \$300.

4.6. Concentrated Animal Feeding Operations (CAFOs). The initial permit application fee for a CAFO shall be \$50.

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

5.1. Fee Calculation. Except as provided in subsections 5.2 through 5.5 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).

5.1.1. The appropriate volume fee will be determined through the use of the “Existing Facility” column of Table A of this rule.

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

5.1.3. 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 \$1,000.

5.3. Closed System Facilities.

5.3.1. The permit renewal application fee for a closed system facility where priority pollutants or toxic chemicals are present in the system will be \$5,000.

5.3.2. The permit renewal application fee for a closed system facility where no priority pollutants or toxic chemicals are present in the system will be \$625.

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.

5.5. Concentrated Animal Feeding Operations (CAFOs). The permit renewal application fee for a CAFO shall be \$50.

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

6.1. Fee Calculation. Except as provided in subsections 6.2 through 6.7 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).

6.1.1. 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.

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

6.1.3. The appropriate waste factor will be determined through the use of Table C of this rule.

6.2. Publicly-Owned Treatment Works.

6.2.1. The permit modification application fee for a POTW that operates a collection system only will be 10% of the initial permit application fee for an application seeking a major modification.

6.2.2. The permit modification application fee for a POTW that operates a collection system only will be 2% of the initial permit application fee or \$50, whichever is greater, for an application seeking a minor modification.

6.3. Closed System Facilities.

6.3.1. The permit modification application fee for a closed system facility will be 10% of the initial permit application fee for an application seeking a major modification.

6.3.2. The permit modification application fee for a closed system facility will be 2% of the initial permit application fee or \$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 10% of the initial permit application fee for sewage facilities and 10% of the initial permit application fee, or \$875 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 \$75 for sewage only facilities and \$175 for industrial facilities for an application seeking a minor modification where no discharge volume is involved.

6.7. Concentrated Animal Feeding Operations. The permit modification application fee for a CAFO shall be \$35 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 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.

7.4.1. The annual permit fee for a closed system facility where priority pollutants or toxic chemicals are present in the system will be \$7,500; Provided, that if the Director determines that a facility is in substantial compliance with its existing permit, the fee will be \$3,750.

7.4.2. The annual permit fee for a closed system facility where no priority pollutants or toxic chemicals are present in the system will be \$175.

7.5. Solid Waste Facilities. The annual permit fee for a solid waste facility will be \$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 the provisions of the water pollution control regulations will be determined by Table G of this rule.

7.8. Concentrated Animal Feeding Operations (CAFOs). The annual permit fee for CAFOs will be \$35.

7.9 Public Geothermal facilities. The annual permit fees for facilities that discharge geothermal wastewater, and no other type of wastewater (stormwater or process wastewater) shall be determined through the use of Table H of this rule. Public Geothermal facilities are defined as a municipalities' or county government's buildings implementing practices using geothermal energy for heating or cooling systems, which systems rely on temperature differentials between groundwater or spring fed streams and ambient air temperature to heat or cool a building or buildings.

TABLE A

**Industrial Wastes Only
Volume Fees**

Average Discharge Volume (gallons per day)	Existing Facility Volume Fee	New Facility Volume Fee
less than 1,001	\$175	\$500
1,001 to 5,000	\$350	\$900
5,001 to 50,000	\$525	\$1,750
50,001 to 100,000	\$700	\$2,100
100,001 to 500,000	\$875	\$2,625
500,001 to 1,000,000	\$1,250	\$3,750
1,000,001 to 5,000,000	\$1,500	\$4,500
greater than 5,000,001	\$1,750	\$5,250

**Sewage Only
Volume Fees**

Average Discharge Volume (gallons per day)	Existing Facility Volume Fee	New Facility Volume Fee
less than 1,001	\$75	\$300
1,001 to 5,000	\$175	\$450
5,001 to 50,000	\$275	\$875
50,001 to 100,000	\$350	\$1,050
100,001 to 500,000	\$450	\$1,300
500,001 to 999,999	\$600	\$1,800
1,000,000 to 4,999,999	\$700	\$2,100
greater than 5,000,000	\$800	\$2,400

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 ^{1,2,3}	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.

¹If a sewage facility has an approved pretreatment program or at least one significant industrial user identified in its permit or permit application, an additional 0.2 shall be added to the waste factor.

²If a sewage facility does not have an approved pretreatment program, does not have any significant industrial users, and has at least one non-significant industrial user identified in its permit or permit application, an additional 0.1 shall be added to the waste factor.

³If a sewage facility uses land application of sewage sludge as a means of sewage disposal in its permit or permit application, an additional 0.2 shall be added to the waste factor.

TABLE D

Annual Permit Fees for Facilities Discharging Sewage

Number of Customers	Annual Permit Fee
less than 100	\$75
100 to 499	\$175
500 to 999	\$425
1,000 to 1,499	\$875
1,500 to 1,999	\$1,300
2,000 to 2,499	\$1,750
2,500 to 2,999	\$2,200
3,000 to 3,499	\$2,625
3,500 to 3,999	\$3,100
4,000 to 4,499	\$3,500
4,500 to 4,999	\$4,000
5,000 to 6,999	\$5,000
greater than 6,999	\$6,000

TABLE E

**Annual Permit Fees for Facilities Discharging
Industrial Wastes and Other Wastes**

Average Discharge Volume (gallons per day)	Annual Permit Fee
less than 1,001	\$175
1,001 to 2,500	\$425
2,501 to 5,000	\$875
5,001 to 10,000	\$1,750
10,001 to 15,000	\$2,625
15,001 to 50,000	\$3,500
50,000 to 100,000	\$7,500
100,001 to 500,000	\$8,000
500,001 to 1,000,000	\$8,500
1,000,001 to 5,000,000	\$9,000
greater than 5,000,001	\$10,000

TABLE F

Schedule of Annual Permit Fees for Facilities Discharging Stormwater

Average Discharge Volume (gallons per day)	Annual Permit Fee
less than 5,001	\$175
5,001 to 15,000	\$425
15,001 to 50,000	\$875
50,001 to 100,000	\$1,775
greater than 100,000	\$2,625

TABLE G

**Schedule of Annual Permit Fees for
Aquaculture Facilities**

# Feed/Month	Annual Fee	Application Fee (Initial and Reissuance)
5,000 to 9,999	\$425	\$425
10,000 to 14,999	\$875	\$425
15,000 to 19,999	\$1,300	\$425
20,000 to 24,999	\$1,750	\$425
25,000 to 29,999	\$2,100	\$425
greater than 30,000	\$3,100	\$425

Table H**Schedule of Annual Permit Fees for Public Geothermal Facilities**

Average Discharge Volume (gallons per day)	Annual Permit Fee
less than 50,001	\$100
50,001 – 100,000	\$250
100,001 – 1,000,000	\$500
greater than 1,000,000	\$750

PERMIT FEE SCHEDULE FOR STORMWATER CONSTRUCTION

Minor Modifications: Date-Change Certification, Co-Applicant Signature Page, Name Change, Acreage Reduction Fee - **\$100**.

Permit Transfer Application Fee - **\$100**

NOI, Minor Construction Modification Fees for disturbance between 1-2.99 Acres - **\$300**

Reissuance Certifications Fee - **\$100**

The Major Modification Fees are based on final permit acreage as follows.

New Permit Registration or Major modification Fee shall be calculated as follows:

$$\text{Base Fee} = \$750 + \$25/\text{ACRE OF DISTURBANCE} = \text{Permit Registration Fee}$$

ALL EXPEDITED REVIEW FEES WILL BE 1.5 X PERMIT REGISTRATION FEE

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:

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

(gallons per day)

where Annual Stormwater Runoff Volume (gallons) =

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

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.