

# WEST VIRGINIA CODE: §22-11-10

## **§22-11-10. Water Quality Management Fund established; permit application fees; annual permit fees; dedication of proceeds; rules.**

(a) The special revenue fund designated the Water Quality Management Fund established in the State Treasury on July 1, 1989, is hereby continued.

(b) The permit application fees and annual permit fees established and collected pursuant to this section; any interest or surcharge assessed and collected by the secretary; interest accruing on investments and deposits of the fund; and any other moneys designated by the secretary shall be deposited into the Water Quality Management Fund. The secretary shall expend the proceeds of the Water Quality Management Fund for the review of initial permit applications, renewal permit applications, and permit issuance activities.

(c) The secretary shall propose for promulgation, legislative rules in accordance with the provisions of § 29A-1-1 *et seq.* of this code, to establish a schedule of application fees for all applications except for surface coal mining operations as defined in § 22-3-13 of this code. The appropriate fee shall be submitted by the applicant to the department with the application filed pursuant to this article for any state water pollution control permit or national pollutant discharge elimination system permit. The schedule of application fees shall be designed to establish reasonable categories of permit application fees based upon the complexity of the permit application review process required by the department pursuant to the provisions of this article and the rules promulgated under this article: *Provided*, That no initial application fee may exceed \$15,000 for any facility nor may any permit renewal application fee exceed \$5,000. The department may not process any permit application pursuant to this article until the required permit application fee has been received.

(d) The secretary shall propose for promulgation legislative rules in accordance with the provisions of § 29A-1-1 *et seq.* of this code to establish a schedule of permit fees to be assessed annually upon each person holding a state water pollution control permit or national pollutant discharge elimination system permit issued pursuant to this article except for permits held by surface coal mining operations as defined in § 22-3-1 *et seq.* of this code. Each person holding a permit shall pay the prescribed annual permit fee to the department pursuant to the rules promulgated under this section: *Provided*, That no person holding a permit for a home aerator of 600 gallons and under shall be required to pay an annual permit fee. The schedule of annual permit fees shall be designed to establish reasonable categories of annual permit fees based upon the relative potential of categories or permits to degrade the waters of the state: *Provided, however*, That no annual permit fee may exceed \$5,000. The secretary may declare any permit issued pursuant to this article void when the annual permit fee is more than 90 days past due pursuant to the rules promulgated under this section. Voiding of the permit will only become effective upon the date the secretary mails, by certified mail, written notice to the permittee's last known address notifying the

permittee that the permit has been voided.

(e) The secretary shall file a quarterly report with the Joint Committee on Government and Finance setting forth the fees established and collected pursuant to this section.

(f) On July 1, 2022, and each year thereafter, a \$1,000 fee shall be assessed for permit applications and a \$3,000 fee shall be assessed for permit renewals submitted pursuant to this article for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. On July 1, 2022, and each year thereafter, a \$2,000 fee shall be assessed for application for major permit modifications and a \$1,000 fee for minor permit modifications submitted pursuant to this article for surface coal mining operations, as defined in § 22-3-1 *et seq.* of this code. On July 1, 2022, and each year thereafter, a \$3,000 fee shall be assessed for application for permit reissuance and a \$2,000 fee for permit transfer submitted pursuant to this article for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. Beginning July 1, 2022, and every year thereafter, an annual permit fee of \$2,000 shall be assessed on the issuance anniversary dates of all permits issued pursuant to this article for surface coal mining operations as defined in § 22-3-1 *et seq.* of this code. Beginning July 1, 2022, and each year thereafter, an application for a water quality certification for activities covered by United States Army Corps of Engineers permits issued pursuant to 33 U.S.C. § 1344 and 33 C.F.R. Parts 323 or 330, in accordance with the legislative rules entitled Rules for Individual State Certification of Activities Requiring a Federal Permit, 47 C.F.R. 5A, must be accompanied by a \$500 fee. For all other categories of permitting actions pursuant to this article related to surface coal mining operations, the secretary shall propose for promulgation legislative rules in accordance with the provisions of §29A-1-1 *et seq.* of this code to establish a schedule of permitting fees.