

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.3118 Stormwater discharge fees; definitions.

Sec. 3118.

(1) Except as otherwise provided in this section, until October 1, 2025, the department shall collect the following stormwater discharge fees from persons that apply for or have been issued stormwater discharge permits:

(a) A 1-time fee of \$400.00 for a permit related solely to a site of construction activity for each permitted site. The fee must be submitted with the application for an individual permit or for a certificate of coverage under a general permit. For a permit by rule, the fee must be submitted by the construction site permittee with the notice of coverage. A person needing more than 1 permit may submit a single payment for more than 1 permit and receive appropriate credit. Payment of the fee under this subdivision or verification of prepayment is a necessary part of a valid permit application or notice of coverage under a permit by rule.

(b) An annual fee of \$260.00 for a permit related solely to a stormwater discharge associated with industrial activity or from a commercial site for which the department determines a permit is needed.

(c) Except as provided in subdivision (d), (e), or (f), an annual fee of \$500.00 for a permit for a municipal separate storm sewer system.

(d) For a permit for a municipal separate storm sewer system issued to a city, village, or township, an annual fee determined by its population in an urbanized area as defined by the United States Bureau of the Census and, except as provided in subsection (11), based on the latest available decennial census, as follows:

- (i) For a population of 1,000 people or fewer, \$500.00.
- (ii) For a population of more than 1,000 people, but fewer than 3,001 people, \$1,000.00.
- (iii) For a population of more than 3,000 people, but fewer than 10,001 people, \$2,000.00.
- (iv) For a population of more than 10,000 people, but fewer than 30,001 people, \$3,000.00.
- (v) For a population of more than 30,000 people, but fewer than 50,001 people, \$4,000.00.
- (vi) For a population of more than 50,000 people, but fewer than 75,001 people, \$5,000.00.
- (vii) For a population of more than 75,000 people, but fewer than 100,001 people, \$6,000.00.
- (viii) For a population of more than 100,000 people, \$7,000.00.

(e) An annual fee of \$3,000.00 for a permit for a municipal separate storm sewer system issued to a county.

(f) For a single municipal separate storm sewer systems permit authorizing a state or federal agency to operate municipal separate storm sewer systems in multiple locations statewide, an annual fee determined pursuant to a memorandum of understanding between that state or federal agency and the department and based on the projected costs of the department to administer the permit.

(2) A stormwater discharge permit is not required for a municipality that does not own or operate a separate storm sewer system. The department shall not collect stormwater discharge fees under this section from a municipality that does not own or operate a separate storm sewer system.

(3) Permit fees required under this section are nonrefundable.

(4) A person possessing a permit not related solely to a site of construction activity as of January 1 shall be assessed a fee. The department shall notify those persons of their fee assessments by February 1. Payment must be postmarked no later than March 15. Failure by the department to send a person a fee assessment notification by the deadline, or failure of a person to receive a fee assessment notification, does not relieve that person of the obligation to pay the fee. If the department does not meet the February deadline for sending the fee assessment, the fee assessment is due not later than 45 days after the permittee receives a fee notification.

(5) If a stormwater permit is issued for a drainage district, the drainage district is responsible for the applicable fee under this section.

(6) The department shall assess interest on all fee payments submitted under this section after the due date. The permittee shall pay an additional amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due.

(7) The department shall forward fees and interest payments collected under this section to the state treasurer for deposit into the fund.

(8) The department shall require the payment of the fee assessed under this section as a condition of issuance or reissuance of a permit not related solely to a site of construction activity.

(9) In addition to any other penalty provided in this part, if a person fails to pay the fee required under this section by its due date, the person is in violation of this part and the department may undertake enforcement actions as authorized under this part.

(10) The attorney general may bring an action to collect overdue fees and interest payments imposed under this section.

(11) If the permit is for a municipal separate storm sewer system and the population served by that system is

different than that determined by the latest decennial census, the permittee may appeal the annual fee determination and submit written verification of actual population served by the municipal separate storm sewer system.

(12) A person that wishes to appeal either a fee or a penalty assessed under this section is limited to an administrative appeal under section 631 of the revised judicature act of 1961, 1961 PA 236, MCL 600.631. The appeal must be filed within 30 days after the department's fee notification under subsection (4).

(13) As used in this section and section 3119:

(a) "Certificate of coverage" means a document issued by the department that authorizes a discharge under a general permit.

(b) "Clean water act" means the federal water pollution control act, 33 USC 1251 to 1388.

(c) "Construction activity" means a human-made earth change or disturbance in the existing cover or topography of land that is 5 acres or more in size, for which a national permit is required pursuant to 40 CFR 122.26(a), and which is described as a construction activity in 40 CFR 122.26(b)(14)(x). Construction activity includes clearing, grading, and excavating activities. Construction activity does not include the practice of clearing, plowing, tilling soil, and harvesting for the purpose of crop production.

(d) "Fee" means a stormwater discharge fee authorized under this section.

(e) "Fund" means the stormwater fund created in section 3119.

(f) "General permit" means a permit issued authorizing a category of similar discharges.

(g) "Individual permit" means a site-specific permit.

(h) "Municipal separate storm sewer system" means all separate storm sewers that are owned or operated by the United States or a state, city, village, township, county, district, association, or other public body created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law, such as a sewer district, flood control district, or drainage district or similar entity, or a designated or approved management agency under section 208 of the clean water act, 33 USC 1288, that discharges to waters of the state. Municipal separate storm sewer system includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. Municipal separate storm sewer system does not include separate storm sewers in very discrete areas, such as individual buildings.

(i) "Notice of coverage" means a notice that a person engaging in construction activity agrees to comply with a permit by rule for that activity. A notice of coverage is not required to include a copy of an individual permit issued under part 91 if the notice of coverage includes a copy of a permit for the construction activity issued under part 615, 625, 631, 632, or 634, along with any forms or diagrams pertaining to soil erosion and sedimentation control that were part of the application for that permit.

(j) "Permit", unless the context implies otherwise, or "stormwater discharge permit" means a permit authorizing the discharge of wastewater or any other substance to surface waters of the state under the national pollutant discharge elimination system, pursuant to the clean water act or this part and the regulations or rules promulgated under that act or this part.

(k) "Public body" means the United States, this state, a city, village, township, county, school district, public college or university, or single purpose governmental agency, or any other body that is created by federal or state law.

(l) "Separate storm sewer system" means a system of drainage, including, but not limited to, roads, catch basins, curbs, gutters, parking lots, ditches, conduits, pumping devices, or man-made channels, that has the following characteristics:

(i) The system is not a combined sewer where stormwater mixes with sanitary wastes.

(ii) The system is not part of a publicly owned treatment works.

(m) "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

(n) "Stormwater discharge associated with industrial activity" means a point source discharge of stormwater from a facility that is considered to be engaging in industrial activity under 40 CFR 122.26(b)(14)(i) to (ix) and (xi).

History: 1994, Act 451, Eff. Mar. 30, 1995 ;-- Am. 1995, Act 169, Imd. Eff. Oct. 9, 1995 ;-- Am. 1999, Act 35, Imd. Eff. June 3, 1999 ;-- Am. 2004, Act 91, Imd. Eff. Apr. 22, 2004 ;-- Am. 2008, Act 2, Imd. Eff. Jan. 16, 2008 ;-- Am. 2009, Act 102, Imd. Eff. Sept. 30, 2009 ;-- Am. 2011, Act 90, Imd. Eff. July 15, 2011 ;-- Am. 2015, Act 82, Eff. Oct. 1, 2015 ;-- Am. 2017, Act 40, Eff. Aug. 21, 2017 ;-- Am. 2019, Act 84, Imd. Eff. Sept. 30, 2019 ;-- Am. 2021, Act 91, Imd. Eff. Oct. 20, 2021

Popular Name: Act 451

Popular Name: NREPA