

# State of South Dakota

NINETY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2018

400Z0451

## SENATE BILL NO. 25

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Department of Environment and Natural Resources

1 FOR AN ACT ENTITLED, An Act to revise certain fees for entities permitted under the  
2 national pollutant discharge elimination system.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34A-2-117 be amended to read:

5 34A-2-117. There is hereby imposed an annual fee ~~upon all facilities~~ on each facility  
6 permitted under the national pollutant discharge elimination system program provisions of  
7 section 402 of the Federal Water Pollution Control Act, 33 U.S. C. 1342, as amended to January  
8 1, 2011, ~~except for feedlot facilities, stormwater discharge systems and construction dewatering~~  
9 ~~activities~~ 2018. The fee shall be assessed as provided in section 3 of this Act and §§ 34A-2-118  
10 to 34A-2-120, inclusive.

11 Section 2. That § 34A-2-118 be amended to read:

12 34A-2-118. For publicly-owned treatment works including municipalities, housing  
13 subdivisions, trailer parks, and sanitary districts owned by the state or a political subdivision of  
14 the state; privately-owned treatment works including housing subdivisions and trailer parks that  
15 treat primarily domestic household wastewater; and Ellsworth ~~Air Force Base~~ Development



1 Authority, the fee imposed in § 34A-2-117 shall be based upon ~~1990~~ the last preceding federal  
2 census data for ~~municipalities and Ellsworth Air Force Base~~, each municipality and the  
3 population served for nonmunicipalities by a nonmunicipality or the Ellsworth Development  
4 Authority, and the fee table below:

5	Population Range	Fee (\$)
6	25 to 50	37
7	51 to 100	75
8	101 to 200	150
9	201 to 300	250
10	301 to 400	350
11	401 to 500	450
12	501 to 600	550
13	601 to 700	650
14	701 to 800	750
15	801 to 900	850
16	901 to 1,000	950
17	1,001 to 2,000	1,500
18	2,001 to 3,000	2,500
19	3,001 to 4,000	3,500
20	4,001 to 5,000	4,500
21	5,001 to 6,000	5,500
22	6,001 to 7,000	6,500
23	7,001 to 8,000	7,500
24	8,001 to 9,000	8,500
25	9,001 to 10,000	9,500
26	10,001 to 11,000	10,500
27	11,001 to 12,000	11,500
28	12,001 to 13,000	12,500

1	13,001 to 14,000	13,500
2	14,001 to 15,000	14,500
3	15,001 to 16,000	15,500
4	16,001 to 17,000	16,500
5	17,001 to 18,000	17,500
6	18,001 to 19,000	18,500
7	19,001 to 20,000	19,500
8	20,001 to 30,000	25,000
9	30,001 to 40,000	35,000
10	40,001 to 50,000	45,000
11	50,001 to 60,000	55,000
12	60,001 to 70,000	65,000
13	70,001 to 80,000	75,000
14	80,001 to 90,000	85,000
15	90,001 to 100,000	95,000
16	100,001 or more	<del>100,000</del> <u>125,000</u>

17 Section 3. That chapter 34A-2 be amended by adding a NEW SECTION to read:

18 There is hereby imposed an annual stormwater fee on each construction and industrial site  
19 that is required to operate under a general water pollution control permit issued under chapter  
20 34A-2. The annual fee imposed in § 34A-2-117 is as follows:

21 (1) The fee payable by the Department of Transportation is twenty-five thousand dollars  
22 per year. The fee accrues on August first of each year and is due on August thirty-  
23 first;

24 (2) The fee for a construction site that is required to operate under a general water  
25 pollution control permit for stormwater discharges associated with construction  
26 activities as defined under 40 CFR Part 126 as amended to January 1, 2018, and  
27 issued under chapter 34A-2, other than any site owned by the Department of

1 Transportation, is based on the number of acres disturbed for the entire construction  
2 project and the fee table below:

3	Disturbed Area (Acres)	Fee (\$)
4	Less than 5	100
5	5 to less than 40	250
6	40 to less than 80	500
7	80 or more	750

8 The fee is payable by the owner of the site. For any construction site permitted before  
9 July 1, 2018, the first annual stormwater fee payment is due on January 31, 2019.  
10 Any future annual fee accrues on January first of each year and is due on January  
11 thirty-first until the permit coverage is terminated. For any construction site permitted  
12 after June 30, 2018, the first annual stormwater fee payment is due when the owner  
13 submits the notice of intent to be covered under the general permit for stormwater  
14 discharges associated with construction activity. For any permit that continues  
15 beyond one year, the annual stormwater fee accrues on the anniversary of the notice  
16 of intent submission and is due thirty days later; and

17 (3) The secretary may promulgate rules, pursuant to chapter 1-26, to establish an annual  
18 tiered fee for each industrial site that is required to operate under a general water  
19 pollution control permit for stormwater discharges associated with industrial  
20 activities as defined under 40 CFR Part 126 as amended to January 1, 2018, and  
21 issued under chapter 34A-2. The tiered fee structure shall equitably assess an annual  
22 fee to cover the reasonable costs of developing and administering the stormwater  
23 permitting requirements for industrial activities that include:

24 (a) Preparing regulations and general stormwater permits for applicable industrial  
25 activities;

- 1           (b)    Reviewing and acting on applications for an industrial stormwater permit or  
2                    permit revision;
- 3           (c)    Implementing the industrial stormwater permits and inspecting permitted  
4                    facilities, to include enforcing the terms and conditions of the permits if  
5                    needed; and
- 6           (d)    Providing training, technical support, and customer services to permitted  
7                    entities to include developing on-line functions.

8           The annual fee is in addition to any other fee or tax levied by law. The fee imposed by this  
9           section shall be remitted to the state along with any form as may be prescribed by the state. The  
10          fees shall be deposited in the surface water discharge and pretreatment permit administrative  
11          subfund established in § 34A-2-121.