



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB1663

Introduced 2/9/2007, by Sen. Donne E. Trotter

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/12.5  
415 ILCS 5/12.6

Amends the Environmental Protection Act. Creates a fee exception for construction site storm water discharges for which a new NPDES permit is issued during the months of January through June. States that no annual fee shall be due for the 12 months beginning July 1 that immediately follow the period for which the initial annual fee was due. Allows the Agency, by rule, to provide for the refund of permit fees. Requires a Section 401 state water quality authorization applicant to submit the fee prior to certification (now, the fee must be submitted with the application). Effective immediately.

LRB095 03367 CMK 23371 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Sections 12.5 and 12.6 as follows:

6 (415 ILCS 5/12.5)

7 Sec. 12.5. NPDES discharge fees; sludge permit fees.

8 (a) Beginning July 1, 2003, the Agency shall assess and  
9 collect annual fees (i) in the amounts set forth in subsection  
10 (e) for all discharges that require an NPDES permit under  
11 subsection (f) of Section 12, from each person holding an NPDES  
12 permit authorizing those discharges (including a person who  
13 continues to discharge under an expired permit pending  
14 renewal), and (ii) in the amounts set forth in subsection (f)  
15 of this Section for all activities that require a permit under  
16 subsection (b) of Section 12, from each person holding a  
17 domestic sewage sludge generator or user permit.

18 Each person subject to this Section must remit the  
19 applicable annual fee to the Agency in accordance with the  
20 requirements set forth in this Section and any rules adopted  
21 pursuant to this Section.

22 (b) Within 30 days after the effective date of this  
23 Section, and each year thereafter, the Agency shall send a fee

1 notice by mail to each existing permittee subject to a fee  
2 under this Section at his or her address of record. The notice  
3 shall state the amount of the applicable annual fee and the  
4 date by which payment is required.

5 Except as provided in subsection (c) with respect to  
6 initial fees under new permits and certain modifications of  
7 existing permits, fees payable under this Section are due by  
8 the date specified in the fee notice, which shall be no less  
9 than 30 days after the date the fee notice is mailed by the  
10 Agency.

11 (c) The initial annual fee for discharges under a new  
12 ~~individual~~ NPDES permit or for activity under a new ~~individual~~  
13 sludge generator or sludge user permit must be remitted to the  
14 Agency prior to the issuance of the permit. The Agency shall  
15 provide notice of the amount of the fee to the applicant during  
16 its review of the application. In the case of a new ~~individual~~  
17 NPDES or sludge permit issued during the months of January  
18 through June, the Agency may prorate the initial annual fee  
19 payable under this Section.

20 The initial annual fee for discharges or other activity  
21 under a general NPDES permit must be remitted to the Agency as  
22 part of the application for coverage under that general permit.

23 In the case of construction site storm water discharges for  
24 which a new NPDES permit is issued during the months of January  
25 through June, no annual fee shall be due for the 12 months  
26 beginning July 1 that immediately follow the period for which

1 the initial annual fee was due.

2 If a requested modification to an existing NPDES permit  
3 causes a change in the applicable fee categories under  
4 subsection (e) that results in an increase in the required fee,  
5 the permittee must pay to the Agency the amount of the  
6 increase, prorated for the number of months remaining before  
7 the next July 1, before the modification is granted.

8 (d) Failure to submit the fee required under this Section  
9 by the due date constitutes a violation of this Section. Late  
10 payments shall incur an interest penalty, calculated at the  
11 rate in effect from time to time for tax delinquencies under  
12 subsection (a) of Section 1003 of the Illinois Income Tax Act,  
13 from the date the fee is due until the date the fee payment is  
14 received by the Agency.

15 (e) The annual fees applicable to discharges under NPDES  
16 permits are as follows:

17 (1) For NPDES permits for publicly owned treatment  
18 works, other facilities for which the wastewater being  
19 treated and discharged is primarily domestic sewage, and  
20 wastewater discharges from the operation of public water  
21 supply treatment facilities, the fee is:

22 (i) \$1,500 for the 12 months beginning July 1, 2003  
23 and \$500 for each subsequent year, for facilities with  
24 a Design Average Flow rate of less than 100,000 gallons  
25 per day;

26 (ii) \$5,000 for the 12 months beginning July 1,

1           2003 and \$2,500 for each subsequent year, for  
2 facilities with a Design Average Flow rate of at least  
3 100,000 gallons per day but less than 500,000 gallons  
4 per day;

5           (iii) \$7,500 for facilities with a Design Average  
6 Flow rate of at least 500,000 gallons per day but less  
7 than 1,000,000 gallons per day;

8           (iv) \$15,000 for facilities with a Design Average  
9 Flow rate of at least 1,000,000 gallons per day but  
10 less than 5,000,000 gallons per day;

11           (v) \$30,000 for facilities with a Design Average  
12 Flow rate of at least 5,000,000 gallons per day but  
13 less than 10,000,000 gallons per day; and

14           (vi) \$50,000 for facilities with a Design Average  
15 Flow rate of 10,000,000 gallons per day or more.

16           (2) For NPDES permits for treatment works or sewer  
17 collection systems that include combined sewer overflow  
18 outfalls, the fee is:

19           (i) \$1,000 for systems serving a tributary  
20 population of 10,000 or less;

21           (ii) \$5,000 for systems serving a tributary  
22 population that is greater than 10,000 but not more  
23 than 25,000; and

24           (iii) \$20,000 for systems serving a tributary  
25 population that is greater than 25,000.

26           The fee amounts in this subdivision (e)(2) are in

1 addition to the fees stated in subdivision (e)(1) when the  
2 combined sewer overflow outfall is contained within a  
3 permit subject to subsection (e)(1) fees.

4 (3) For NPDES permits for mines producing coal, the fee  
5 is \$5,000.

6 (4) For NPDES permits for mines other than mines  
7 producing coal, the fee is \$5,000.

8 (5) For NPDES permits for industrial activity where  
9 toxic substances are not regulated, other than permits  
10 covered under subdivision (e)(3) or (e)(4), the fee is:

11 (i) \$1,000 for a facility with a Design Average  
12 Flow rate that is not more than 10,000 gallons per day;

13 (ii) \$2,500 for a facility with a Design Average  
14 Flow rate that is more than 10,000 gallons per day but  
15 not more than 100,000 gallons per day; and

16 (iii) \$10,000 for a facility with a Design Average  
17 Flow rate that is more than 100,000 gallons per day.

18 (6) For NPDES permits for industrial activity where  
19 toxic substances are regulated, other than permits covered  
20 under subdivision (e)(3) or (e)(4), the fee is:

21 (i) \$15,000 for a facility with a Design Average  
22 Flow rate that is not more than 250,000 gallons per  
23 day; and

24 (ii) \$20,000 for a facility with a Design Average  
25 Flow rate that is more than 250,000 gallons per day.

26 (7) For NPDES permits for industrial activity

1 classified by USEPA as a major discharge, other than  
2 permits covered under subdivision (e) (3) or (e) (4), the fee  
3 is:

4 (i) \$30,000 for a facility where toxic substances  
5 are not regulated; and

6 (ii) \$50,000 for a facility where toxic substances  
7 are regulated.

8 (8) For NPDES permits for municipal separate storm  
9 sewer systems, the fee is \$1,000.

10 (9) For NPDES permits for construction site or  
11 industrial storm water, the fee is \$500.

12 (f) The annual fee for activities under a permit that  
13 authorizes applying sludge on land is \$2,500 for a sludge  
14 generator permit and \$5,000 for a sludge user permit.

15 (g) More than one of the annual fees specified in  
16 subsections (e) and (f) may be applicable to a permit holder.  
17 These fees are in addition to any other fees required under  
18 this Act.

19 (h) The fees imposed under this Section do not apply to the  
20 State or any department or agency of the State, nor to any  
21 school district, or to any private sewage disposal system as  
22 defined in the Private Sewage Disposal Licensing Act (225 ILCS  
23 225/).

24 (i) The Agency may adopt rules to administer the fee  
25 program established in this Section. The Agency may include  
26 provisions pertaining to invoices, notice of late payment,

1 refunds, and disputes concerning the amount or timeliness of  
2 payment. The Agency may set forth procedures and criteria for  
3 the acceptance of payments. The absence of such rules does not  
4 affect the duty of the Agency to immediately begin the  
5 assessment and collection of fees under this Section.

6 (j) All fees and interest penalties collected by the Agency  
7 under this Section shall be deposited into the Illinois Clean  
8 Water Fund, which is hereby created as a special fund in the  
9 State treasury. Gifts, supplemental environmental project  
10 funds, and grants may be deposited into the Fund. Investment  
11 earnings on moneys held in the Fund shall be credited to the  
12 Fund.

13 Subject to appropriation, the moneys in the Fund shall be  
14 used by the Agency to carry out the Agency's clean water  
15 activities.

16 (k) Except as provided in subsection (l) or Agency rules,  
17 fees paid to the Agency under this Section are not refundable.

18 (l) The Agency may refund the difference between (a) the  
19 amount paid by any person under subsection (e)(1)(i) or  
20 (e)(1)(ii) of this Section for the 12 months beginning July 1,  
21 2004 and (b) the amount due under subsection (e)(1)(i) or  
22 (e)(1)(ii) as established by this amendatory Act of the 93rd  
23 General Assembly.

24 (Source: P.A. 93-32, eff. 7-1-03; 93-840, eff. 7-30-04.)



1           Sec. 12.6. Certification fees.

2           (a) Beginning July 1, 2003, the Agency shall collect a fee  
3           in the amount set forth in subsection (b) from each applicant  
4           for a state water quality certification required by Section 401  
5           of the federal Clean Water Act prior to a federal authorization  
6           pursuant to Section 404 of that Act; except that the fee does  
7           not apply to the State or any department or agency of the  
8           State, nor to any school district.

9           (b) The amount of the fee for a State water quality  
10          certification is \$350 or 1% of the gross value of the proposed  
11          project, whichever is greater, but not to exceed \$10,000.

12          (c) Each applicant seeking a federal authorization of an  
13          action requiring a Section 401 state water quality  
14          certification by the Agency shall submit the required fee to  
15          the Agency prior to the issuance of the certification ~~with the~~  
16          ~~application.~~ The Agency shall provide notice of the amount of  
17          the fee to the applicant during its review of the application.  
18          The Agency shall not issue a Section 401 state water quality  
19          certification until the appropriate fee has been received from  
20          the applicant. ~~The Agency shall deny an application for which a~~  
21          ~~fee is required under this Section, if the application does not~~  
22          ~~contain the appropriate fee.~~

23          (d) The Agency may establish procedures relating to the  
24          collection of fees under this Section. Notwithstanding the  
25          adoption of any rules establishing such procedures, the Agency  
26          may begin collecting fees under this Section on July 1, 2003

1 for all complete applications received on or after that date.

2 All fees collected by the Agency under this Section shall  
3 be deposited into the Illinois Clean Water Fund. Fees paid  
4 under this Section are not refundable.

5 (Source: P.A. 93-32, eff. 7-1-03.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.