

HB0350



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0350

Introduced 1/27/2009, by Rep. Jil Tracy

SYNOPSIS AS INTRODUCED:

415 ILCS 5/12.5

Amends the Environmental Protection Act. Provides that the Environmental Protection Agency shall (now, "may") adopt rules to administer the NPDES permit fee program. Provides that the Agency shall, at a minimum, include provisions pertaining to an annual payment schedule and an interest-free quarterly payment schedule. Effective immediately.

LRB096 04670 JDS 14731 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 Section 12.5 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 NPDES
12 permit or for activity under a new sludge generator or sludge
13 user permit must be remitted to the Agency prior to the
14 issuance of the permit. The Agency shall provide notice of the
15 amount of the fee to the applicant during its review of the
16 application. In the case of a new NPDES or sludge permit issued
17 during the months of January through June, the Agency may
18 prorate the initial annual fee payable under this Section.

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

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

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

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

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

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

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

25 (ii) \$5,000 for the 12 months beginning July 1,
26 2003 and \$2,500 for each subsequent year, for

1 facilities with a Design Average Flow rate of at least
2 100,000 gallons per day but less than 500,000 gallons
3 per day;

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

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

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

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

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

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

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

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

25 The fee amounts in this subdivision (e) (2) are in
26 addition to the fees stated in subdivision (e) (1) when the

1 combined sewer overflow outfall is contained within a
2 permit subject to subsection (e) (1) fees.

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

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

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

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

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

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

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

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

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

25 (7) For NPDES permits for industrial activity
26 classified by USEPA as a major discharge, other than

1 permits covered under subdivision (e) (3) or (e) (4), the fee
2 is:

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

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

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

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

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

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

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

23 (i) Notwithstanding subsection (d) of this Section, the ~~The~~
24 Agency shall ~~may~~ adopt rules to administer the fee program
25 established in this Section. The Agency shall, at a minimum,
26 include provisions pertaining to an annual payment schedule and

1 an interest-free quarterly payment schedule. The Agency may
2 include provisions pertaining to invoices, notice of late
3 payment, refunds, and disputes concerning the amount or
4 timeliness of payment. The Agency may set forth procedures and
5 criteria for the acceptance of payments. The absence of such
6 rules does not affect the duty of the Agency to immediately
7 begin the assessment and collection of fees under this Section.

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

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

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

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

26 (Source: P.A. 95-516, eff. 8-28-07.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.