

HB5642



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5642

Introduced 2/15/2012, by Rep. Michael W. Tryon

SYNOPSIS AS INTRODUCED:

415 ILCS 5/12.5

Amends the Environmental Protection Act. Establishes NPDES permit fees for Concentrated Animal Feeding Operations (CAFOs). Effective immediately.

LRB097 20454 JDS 65965 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, except when a fee is not due

1 because of the operation of subsection (c), the Agency shall
2 send a fee notice by mail to each existing permittee subject to
3 a fee under this Section at his or her address of record. The
4 notice shall state the amount of the applicable annual fee and
5 the date by which payment is required.

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

12 (c) The initial annual fee for discharges under a new NPDES
13 permit or for activity under a new sludge generator or sludge
14 user permit must be remitted to the Agency prior to the
15 issuance of the permit. The Agency shall provide notice of the
16 amount of the fee to the applicant during its review of the
17 application. In the case of a new NPDES or sludge permit issued
18 during the months of January through June, the Agency may
19 prorate the initial annual fee 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 Beginning January 1, 2010, in the case of construction site
24 storm water discharges for which a coverage letter under a
25 general NPDES permit or individual NPDES permit has been issued
26 or for which the application for coverage under an NPDES permit

1 has been filed with the Agency, no annual fee shall be due
2 after payment of an initial annual fee in the amount provided
3 in subsection (e) (10) of this Section.

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

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

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

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

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

1 per day;

2 (ii) \$5,000 for the 12 months beginning July 1,
3 2003 and \$2,500 for each subsequent year, for
4 facilities with a Design Average Flow rate of at least
5 100,000 gallons per day but less than 500,000 gallons
6 per day;

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

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

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

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

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

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

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

26 (iii) \$20,000 for systems serving a tributary

1 population that is greater than 25,000.

2 The fee amounts in this subdivision (e)(2) are in
3 addition to the fees stated in subdivision (e)(1) when the
4 combined sewer overflow outfall is contained within a
5 permit subject to subsection (e)(1) fees.

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

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

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

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

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

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

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

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

26 (ii) \$20,000 for a facility with a Design Average

1 Flow rate that is more than 250,000 gallons per day.

2 (7) For NPDES permits for industrial activity
3 classified by USEPA as a major discharge, other than
4 permits covered under subdivision (e) (3) or (e) (4), the fee
5 is:

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

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

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

12 (9) For NPDES permits for industrial storm water, the
13 fee is \$500.

14 (10) For ~~for~~ NPDES permits for construction site storm
15 water, the fee

16 (A) for applications received before January 1,
17 2010 is \$500;

18 (B) for applications received on or after January
19 1, 2010 is:

20 (i) \$250 if less than 5 acres are disturbed;
21 and

22 (ii) \$750 if 5 or more acres are disturbed.

23 (11) For an NPDES permit for a Concentrated Animal
24 Feeding Operation (CAFO), the fee is:

25 (A) \$750 for a Large CAFO, as defined in 40 C.F.R.
26 122.23(b) (4);

1 (B) \$350 for a Medium CAFO, as defined in 40 C.F.R.

2 122.23(b) (6); and

3 (C) \$150 for a Small CAFO, as defined in 40 C.F.R.

4 122.23(b) (9).

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

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

12 (h) The fees imposed under this Section do not apply to the
13 State or any department or agency of the State, nor to any
14 school district, or to any private sewage disposal system as
15 defined in the Private Sewage Disposal Licensing Act (225 ILCS
16 225/).

17 (i) The Agency may adopt rules to administer the fee
18 program established in this Section. The Agency may include
19 provisions pertaining to invoices, notice of late payment,
20 refunds, and disputes concerning the amount or timeliness of
21 payment. The Agency may set forth procedures and criteria for
22 the acceptance of payments. The absence of such rules does not
23 affect the duty of the Agency to immediately begin the
24 assessment and collection of fees under this Section.

25 (j) All fees and interest penalties collected by the Agency
26 under this Section shall be deposited into the Illinois Clean

1 Water Fund, which is hereby created as a special fund in the
2 State treasury. Gifts, supplemental environmental project
3 funds, and grants may be deposited into the Fund. Investment
4 earnings on moneys held in the Fund shall be credited to the
5 Fund.

6 Subject to appropriation, the moneys in the Fund shall be
7 used by the Agency to carry out the Agency's clean water
8 activities.

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

11 (l) The Agency may refund the difference between (a) the
12 amount paid by any person under subsection (e)(1)(i) or
13 (e)(1)(ii) of this Section for the 12 months beginning July 1,
14 2004 and (b) the amount due under subsection (e)(1)(i) or
15 (e)(1)(ii) as established by this amendatory Act of the 93rd
16 General Assembly.

17 (Source: P.A. 95-516, eff. 8-28-07; 96-245, eff. 8-11-09.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.