

# SB0863



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB0863

Introduced 1/24/2013, by Sen. John J. Cullerton

### SYNOPSIS AS INTRODUCED:

415 ILCS 5/12.5

Amends the Environmental Protection Act. Makes a technical change in a Section concerning NPDES discharge fees.

LRB098 05068 JDS 35099 b

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 ~~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 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. 96-245, eff. 8-11-09; 97-962, eff. 8-15-12.)