

# SB0945



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**SB0945**

Introduced 2/8/2007, by Sen. James F. Clayborne, Jr. - Emil Jones, Jr.

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/12.5

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

LRB095 05760 CMK 25850 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, 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 If a requested modification to an existing NPDES permit  
24 causes a change in the applicable fee categories under  
25 subsection (e) that results in an increase in the required fee,  
26 the permittee must pay to the Agency the amount of the

1 increase, prorated for the number of months remaining before  
2 the next July 1, before the modification is granted.

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

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

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

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

21 (ii) \$5,000 for the 12 months beginning July 1,  
22 2003 and \$2,500 for each subsequent year, for  
23 facilities with a Design Average Flow rate of at least  
24 100,000 gallons per day but less than 500,000 gallons  
25 per day;

26 (iii) \$7,500 for facilities with a Design Average

1 Flow rate of at least 500,000 gallons per day but less  
2 than 1,000,000 gallons per day;

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

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

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

11 (2) For NPDES permits for treatment works or sewer  
12 collection systems that include combined sewer overflow  
13 outfalls, the fee is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11           (k) Except as provided in subsection (l), fees paid to the  
12 Agency under this Section are not refundable.

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

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