

AN ACT concerning safety.

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

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

(415 ILCS 5/12.5)

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

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

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

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

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

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

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

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

In the case of construction site stormwater discharges for which a new NPDES permit is issued during the months of January through June, 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) For NPDES permits for industrial activity

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 12.6. Certification fees.

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

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

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

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



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for all complete applications received on or after that date.

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

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

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