



Rep. Michael W. Tryon

**Filed: 3/14/2011**

09700HB3504ham001

LRB097 10835 JDS 52919 a

1 AMENDMENT TO HOUSE BILL 3504

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3504 by replacing  
3 everything after the enacting clause with the following:

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

1 domestic sewage sludge generator or user permit.

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

6 (b) Within 30 days after the effective date of this  
7 Section, and each year thereafter, except when a fee is not due  
8 because of the operation of subsection (c), the Agency shall  
9 send a fee notice by mail to each existing permittee subject to  
10 a fee under this Section at his or her address of record. The  
11 notice shall state the amount of the applicable annual fee and  
12 the date by which payment is required.

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

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

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

4           Beginning January 1, 2010, in the case of construction site  
5 storm water discharges for which a coverage letter under a  
6 general NPDES permit or individual NPDES permit has been issued  
7 or for which the application for coverage under an NPDES permit  
8 has been filed with the Agency, no annual fee shall be due  
9 after payment of an initial annual fee in the amount provided  
10 in subsection (e) (10) of this Section.

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

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

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

26           (1) For NPDES permits for publicly owned treatment

1 works, other facilities for which the wastewater being  
2 treated and discharged is primarily domestic sewage, and  
3 wastewater discharges from the operation of public water  
4 supply treatment facilities, the fee is:

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

9 (ii) \$5,000 for the 12 months beginning July 1,  
10 2003 and \$2,500 for each subsequent year, for  
11 facilities with a Design Average Flow rate of at least  
12 100,000 gallons per day but less than 500,000 gallons  
13 per day;

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

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

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

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

25 (2) For NPDES permits for treatment works or sewer  
26 collection systems that include combined sewer overflow

1 outfalls, the fee is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           (10) For ~~for~~ NPDES permits for construction site storm  
22 water, the fee

23           (A) for applications received before January 1,  
24 2010 is \$500;

25           (B) for applications received on or after January  
26 1, 2010 is:

1 (i) \$250 if less than 5 acres are disturbed;

2 and

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

4 (11) For NPDES permits for concentrated animal feeding  
5 operations, the fee shall be set by rule of the Agency in  
6 an amount that does not exceed the costs of administering  
7 the NPDES permit program for those operations. Fees shall  
8 be set under this paragraph (11) in accordance with the  
9 Administrative Review Law.

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

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

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

22 (i) The Agency may adopt rules to administer the fee  
23 program established in this Section. The Agency may include  
24 provisions pertaining to invoices, notice of late payment,  
25 refunds, and disputes concerning the amount or timeliness of  
26 payment. The Agency may set forth procedures and criteria for

1 the acceptance of payments. The absence of such rules does not  
2 affect the duty of the Agency to immediately begin the  
3 assessment and collection of fees under this Section.

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

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

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

16 (l) The Agency may refund the difference between (a) the  
17 amount paid by any person under subsection (e)(1)(i) or  
18 (e)(1)(ii) of this Section for the 12 months beginning July 1,  
19 2004 and (b) the amount due under subsection (e)(1)(i) or  
20 (e)(1)(ii) as established by this amendatory Act of the 93rd  
21 General Assembly.

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