

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 325
PERMIT FEES FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
PERMITS AND DOMESTIC SEWAGE SLUDGE
GENERATOR OR SLUDGE USER PERMITS

SUBPART A: GENERAL

| | |
|---------|--|
| Section | |
| 325.100 | Purpose |
| 325.105 | Applicability |
| 325.110 | Definitions |
| 325.115 | Relation to Other Fees and Fee Systems |
| 325.120 | Severability |

SUBPART B: PROCEDURES FOR DETERMINATION AND PAYMENT OF FEES FOR
NPDES PERMITS AND SLUDGE GENERATOR OR SLUDGE USER PERMITS

| | |
|---------|--|
| Section | |
| 325.205 | Amount of the Fee |
| 325.210 | Proration of Fees |
| 325.215 | One Time Annual Fee Payments for Construction Site Stormwater Discharges |
| 325.220 | Manner of Payment |
| 325.230 | Deposit of Fee Payments |
| 325.235 | Refunds |

SUBPART C: PROCEDURES FOR PROCESSING PERMIT APPLICATIONS AND
NOTICES OF INTENT FOR WHICH FEES APPLY

| | |
|---------|---|
| Section | |
| 325.310 | Notices of Intent to Pursue Coverage Under General NPDES Permits Not Containing the Entire Fee |
| 325.315 | Modifications to Notices of Intent for General NPDES Permits |
| 325.320 | Modifications to NPDES Permits and Sludge Generator or Sludge User Permits |

SUBPART D: NOTICES, TERMINATIONS AND TRANSFER OF OWNERSHIP

| | |
|---------|---|
| Section | |
| 325.410 | Annual Fee Notices for Existing Permits and Permit Renewals |
| 325.420 | Initial Annual Fee Notices for New Permits |
| 325.425 | Due Dates |

325.430 Terminations of NPDES Permits and Sludge Generator and Sludge User Permits
325.435 Transfer of Ownership and Fees

SUBPART E: RESOLUTION OF DISPUTES

Section
325.510 Request for Reconsideration
325.520 Agency Response
325.530 Appeal of Final Agency Action

SUBPART F: FAILURE TO COMPLY WITH SECTION 12.5 OF THE ACT

Section
325.605 Failure to Pay Annual NPDES and Sludge Generator or Sludge User Discharge Fees
325.610 Interest on Unpaid Fees
325.620 Collection Procedures for Unpaid Fees

AUTHORITY: Implementing and authorized by Section 12.5 of the Environmental Protection Act [415 ILCS 5/12.5].

SOURCE: Adopted at 34 Ill. Reg. 10056, effective June 29, 2010; amended at 37 Ill. Reg. 7484, effective June 1, 2013.

SUBPART A: GENERAL

Section 325.100 Purpose

The purpose of this Part is to establish procedures for the collection of fees for discharges that require a National Pollutant Discharge Elimination System (NPDES) permit and are covered under Section 12.5 of the Environmental Protection Act (Act), and for activities that require a domestic sewage sludge generator or sludge user permit from persons holding those permits.

Section 325.105 Applicability

- a) Except as provided otherwise in subsection (b) of this Section, this Part applies to each person holding an NPDES permit under Section 12(f) of the Environmental Protection Act, including a person who continues to discharge under an expired permit that is properly administratively continued pending renewal, and each person holding a domestic sewage sludge generator or sludge user permit under Section 12(b) of the Act.
- b) This Part does not apply to:
 - 1) the State of Illinois or any department or agency of the State;

- 2) school districts;
- 3) private sewage disposal systems, as defined in the Private Sewage Disposal Licensing Act [225 ILCS 225];
- 4) the federal government or any department or agency of the United States;
or
- 5) the permit holder of any NPDES permit issued under Section 12(f) of the Act for which an annual fee amount is not prescribed in Section 12.5 of the Act.

Section 325.110 Definitions

a) Unless specified otherwise in this Section, all terms shall have the meanings set forth in the Environmental Protection Act [415 ILCS 5].

b) For purposes of this Part, the following definitions apply:

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Applicant" means a person who applies for coverage under a National Pollutant Discharge Elimination System permit to discharge stormwater or wastewater or to generate or use sludge.

"Board" means the Illinois Pollution Control Board.

"Design Average Flow" means the average of the daily volumes to be received for a continuous 12-month period of the design year, expressed as a volume per unit of time (35 Ill. Adm. Code 370.211). For purposes of calculating the fee due under this Part for intermittent discharges, Design Average Flow is calculated using only the daily volume values for the number of days the discharge values will be greater than zero.

"Fiscal Year" means the 12 month period beginning July 1 and ending June 30 of the following calendar year.

"Fee" means the fees prescribed under Section 12.5 of the Act.

"Industrial Activity" means those industries identified in Section 502(18) of the Clean Water Act (33 USC 1362(18)) and in 40 CFR 122, appendix D (2007).

"Major Discharge" means the discharge from a source that has been designated as a major facility by USEPA pursuant to the definition in 40 CFR 122.2.

"NPDES" means National Pollutant Discharge Elimination System.

"Permit Holder" means a person who has obtained coverage under an NPDES permit to discharge stormwater or wastewater or to generate or use sludge.

"Person" means any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315]

"School District" means any public school district in this State established under the Illinois School Code [105 ILCS 5].

"Sewage Sludge" means any solid, semi-solid, or liquid residue removed during the treatment of municipal waste water or domestic sewage.

"Toxic" or "Toxics" means any pollutant listed as toxic pursuant to section 307(a)(1) of the Clean Water Act (33 USC 1317(a)(1)) or in 40 CFR 122, appendix D, Tables II, III and V (2007).

"Tributary Population" means the number of individuals served by the treatment works or sewer system with combined sewer overflow outfalls based on the most recent census data.

"USEPA" means the United States Environmental Protection Agency.

"Where Toxic Substances are Regulated" means an industrial facility whose NPDES permit contains numeric effluent limitations for one or more toxic pollutant parameters.

Section 325.115 Relation to Other Fees and Fee Systems

- a) The fees collected pursuant to this Part and the fee collection procedures set forth in this Part are separate from and in addition to all other fees and fee systems established by federal, State or local law.
- b) More than one of the annual fees specified in Section 325.205 may be applicable to an individual permit holder or applicant at an individual facility. These fees are in addition to any other fees required under the Act.

Section 325.120 Severability

If any provision of this Part or the application of that provision to any person or in any circumstance is adjudged invalid, the adjudication shall not affect the validity of this Part as a whole or any provision of this Part not adjudged invalid.

SUBPART B: PROCEDURES FOR DETERMINATION AND PAYMENT OF FEES FOR NPDES PERMITS AND SLUDGE GENERATOR OR SLUDGE USER PERMITS

Section 325.205 Amount of the Fee

- a) Except when no fee is due pursuant to Section 325.215 for construction site stormwater discharges, each permit holder or applicant subject to this Part pursuant to Section 325.105 shall pay an annual fee to the Agency for any discharge that requires an NPDES permit pursuant to Section 12(f) of the Act and for all activities requiring a sludge generator or sludge user permit pursuant to Section 12(b) of the Act.
 - 1) *The initial annual fee for discharges under a new 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. [415 ILCS 5/12.5(c)]*
 - 2) *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. [415 ILCS 5/12.5(c)]*
- b) *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:*
 - A) *\$500 for facilities with a Design Average Flow rate of less than 100,000 gallons per day;*
 - B) *\$2,500 for facilities with a Design Average Flow rate of at least 100,000 gallons per day but less than 500,000 gallons per day;*
 - C) *\$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;*
 - D) *\$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;*

- E) \$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
 - F) \$50,000 for facilities with a Design Average Flow rate of 10,000,000 gallons per day or more. [415 ILCS 5/12.5(e)(1)]
- 2) For NPDES permits for treatment works or sewer collection systems that include combined sewer overflow outfalls, in addition to the fees in subsection (b)(1) of this Section, the fee is:
- A) \$1,000 for systems serving a tributary population of 10,000 or less;
 - B) \$5,000 for systems serving a tributary population that is greater than 10,000 but not more than 25,000; and
 - C) \$20,000 for systems serving a tributary population that is greater than 25,000. [415 ILCS 5/12.5(e)(2)]
- 3) For NPDES permits for mines, the fee is \$5,000. [415 ILCS 5/12.5(e)(3) and (4)]
- 4) For NPDES permits for industrial activity, other than mines, where toxic substances are not regulated, the fee is:
- A) \$1,000 for a facility with a Design Average Flow rate that is not more than 10,000 gallons per day;
 - B) \$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
 - C) \$10,000 for a facility with a Design Average Flow rate that is more than 100,000 gallons per day. [415 ILCS 5/12.5(e)(5)]
- 5) For NPDES permits for industrial activity, other than mines, where toxic substances are regulated, the fee is:
- A) \$15,000 for a facility with a Design Average Flow rate that is not more than 250,000 gallons per day; and
 - B) \$20,000 for a facility with a Design Average Flow rate that is more than 250,000 gallons per day. [415 ILCS 5/12.5(e)(6)]

- 6) For NPDES permits for industrial activity classified by USEPA as a major discharge, other than mines, the fee is:
 - A) \$30,000 for a facility where toxic substances are not regulated; and
 - B) \$50,000 for a facility where toxic substances are regulated. [415 ILCS 5/12.5(e)(7)]
 - 7) For NPDES permits for municipal separate storm sewer systems, the fee is \$1,000. [415 ILCS 5/12.5(e)(8)]
 - 8) For NPDES permits for industrial storm water, the fee is \$500. [415 ILCS 5/12.5(e)(9)]
 - 9) For NPDES permits for construction site storm water, the fee:
 - A) for applications received before January 1, 2010 is \$500;
 - B) for applications received on or after January 1, 2010 is:
 - i) \$250 if less than 5 acres are disturbed; and
 - ii) \$750 if 5 or more acres are disturbed. [415 ILCS 5/12.5(e)(10)]
 - 10) For NPDES permits for a Concentrated Animal Feeding Operation (CAFO), the fee is:
 - A) \$750 for a Large CAFO as defined in 40 CFR 122.23(b)(4)(2012);
 - B) \$350 for a Medium CAFO as defined in 40 CFR 122.23(b)(6)(2012); and
 - C) \$150 for a Small CAFO as defined in 40 CFR 122.23(b)(9)(2012). [415 ILCS 5/12.5(e)(11)]
- c) The annual fee for activities under a permit that authorizes applying sludge on land is:
- 1) \$2,500 for a sludge generator permit.
 - 2) \$5,000 for a sludge user permit. [415 ILCS 5/12.5(f)]

(Source: Amended at 37 Ill. Reg. 7484, effective June 1, 2013)

Section 325.210 Proration of Fees

- a) Proration of New Permit Fees
 - 1) *In the case of a new NPDES or sludge permit issued during the months of January through June, the Agency may prorate the initial annual fee payable under this Section. [415 ILCS 5/12.5(c)] There is no proration of construction site stormwater discharge NPDES permit fees.*
 - 2) Applicants for new NPDES or sludge permits issued between July 1 and December 31 must pay the entire fee due under Section 325.205.
 - 3) Applicants for new NPDES or sludge permits issued between January 1 and May 31 will be charged a prorated fee according to the following schedule based on the month in which the permit is issued.
 - A) January: 50 percent of the appropriate annual fee amount or \$250, whichever is greater.
 - B) February: 40 percent of the appropriate annual fee amount or \$250, whichever is greater.
 - C) March: 30 percent of the appropriate annual fee amount or \$250, whichever is greater.
 - D) April: 20 percent of the appropriate annual fee amount or \$250, whichever is greater.
 - E) May: 10 percent of the appropriate annual fee amount or \$250, whichever is greater.
 - 4) For new NPDES or sludge permits issued in June, the applicant must pay the entire annual fee for the following fiscal year prior to issuance of the permit.
 - 5) The minimum fee that may be paid pursuant to this subsection (a) is \$250.
- b) Proration of Fees Due Following Permit Modifications.

If a requested modification to an existing NPDES permit causes a change in the applicable fee categories under Section 325.205 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 prior to the next July 1, before the modification is granted. [415 ILCS 5/12.5(c)] For purposes of calculating the

prorated fee due under this subsection, partial months will be rounded down to the nearest whole month.

Section 325.215 One Time Annual Fee Payments for Construction Site Stormwater Discharges

- a) *Beginning January 1, 2010, in the case of construction site stormwater discharges for which a coverage letter under a general NPDES permit or individual NPDES permit has been issued or for which the application for coverage under an NPDES permit has been filed with the Agency, no annual fee shall be due after payment of an initial annual fee in the amount provided in Section 325.205(b)(9).*
- b) When the permit holder of an NPDES construction site stormwater discharge permit has paid at least one annual fee of \$500 prior to January 1, 2010 for the permitted project, the requirements of subsection (a) of this Section will be satisfied and no additional annual fees will be due for that project.
- c) No refunds will be issued to any permit holder of an NPDES construction site stormwater discharge permit who has paid annual fees that exceed the amounts provided in subsection (a) prior to January 1, 2010.

Section 325.220 Manner of Payment

- a) Payment of each permit fee due must be by check, cashier's check or money order payable to "Illinois EPA". The payment shall be submitted to the address indicated on the fee notice and must include the permittee's Federal Employer Identification Number (FEIN) or Social Security Number (SSN) and permit number.
- b) The Agency may also accept payment by electronic funds transfer, credit card or other electronic method when the Agency has the capability to do so. In order to make an electronic payment, the permittee or applicant must first submit documentation to the Agency of the permit number for which the electronic payment is being made and the permittee's or applicant's FEIN or SSN.
- c) Payment for the initial annual fee for discharges or other activity under a general NPDES permit must be submitted, along with the application for coverage or Notice of Intent to operate under that general NPDES permit. If the Agency determines an individual NPDES permit is required, the fee paid with the application will be credited to the amount due under the individual permit and may be prorated at the date of issuance pursuant to Section 325.210. Any overpayment as a result will be credited to the following fiscal year's annual fee.
- d) The Agency will provide notice to the permit applicant for a new individual NPDES permit and for a new individual sludge generator or sludge user permit of

the fee due under Section 325.205 while the permit is under review and prior to issuance. No NPDES permit or sludge generator or sludge user permit may be issued until the total fee due under this Part has been remitted to the Agency.

- e) Payment should not include any fees due to the Agency for any purpose other than the fee due under Section 325.205.

Section 325.230 Deposit of Fee Payments

All fees and interest penalties collected by the Agency under Section 12.5 of the Act shall be deposited into the Illinois Clean Water Fund. Subject to appropriation, the moneys in the Fund shall be used by the Agency to carry out the Agency's clean water activities. [415 ILCS 5/12.5(j)]

Section 325.235 Refunds

- a) No fee remitted to the Agency under this Part shall be refunded in whole or in part at any time or for any reason except as provided in Section 12.5(l) of the Act for certain payments made for the period July 1, 2004 through June 30, 2005 under Sections 12.5(e)(1)(i) and (ii) of the Act and except for those circumstances provided for in subsection (c) of this Section.
- b) Overpayments received by the Agency under this Part will be automatically credited to the fees due for the permit holder at the affected facility in the following fiscal year, unless a refund is requested in writing pursuant to subsection (c). When no future fees are due for that facility or when the amount of the overpayment exceeds the amount due for the following fiscal year, the permit holder may request in writing that the overpayment be credited to fees due to the Agency for another facility under this Part or for fees due to the Agency for the affected facility under a different Part.
- c) Pursuant to this Section, as authorized by Section 12.5(k) of the Act, the Agency may issue refunds when a written request containing the applicable permit number, FEIN or SSN and refund amount requested is received from the permittee or applicant and one of the following circumstances are present:
 - 1) the payment received is greater than the amount billed on the invoice for existing permits or indicated on the notice of fee due for new permits and no past due amounts are outstanding;
 - 2) the amount billed is determined to be incorrect; or
 - 3) a refund is required by order of the Pollution Control Board, by a court order or at the direction of the Comptroller's Office.

SUBPART C: PROCEDURES FOR PROCESSING PERMIT APPLICATIONS AND
NOTICES OF INTENT FOR WHICH FEES APPLY

Section 325.310 Notices of Intent to Pursue Coverage Under General NPDES Permits Not Containing the Entire Fee

- a) Notices of Intent submitted for coverage under an existing general NPDES permit not containing the entire fee due under Section 325.205 shall be considered incomplete and coverage under the applicable general NPDES permit will not be granted by the Agency.
- b) The Agency shall take the following actions in response to Notices of Intent found to be incomplete for failure to submit the entire fee due:
 - 1) The Agency shall deposit any fees submitted along with the Notice of Intent in the Illinois Clean Water Fund and shall notify the applicant of the fee deficiency.
 - 2) Within 30 days after the date on the fee deficiency notice, the applicant must submit the balance of the fee that is due.

Section 325.315 Modifications to Notices of Intent for General NPDES Permits

- a) **Modifications to Pending Applications.**
Prior to a final Agency decision on whether to grant coverage under a general NPDES permit for which a fee has been paid under this Part, the applicant may propose modifications to the Notice of Intent in accordance with the Act and regulations adopted under the Act without any additional fee becoming due, unless the proposed modifications would cause additional fees to be due under Section 325.205. If the proposed modification would cause additional fees to become due, the applicant shall submit the additional fee to the Agency with the proposed modifications to the Notice of Intent for a General NPDES permit or prior to permit issuance for an individual NPDES permit.
- b) **Modifications to Existing Permits.**
A permit holder with coverage under an NPDES general permit may propose modifications to the Notice of Intent to pursue coverage under that general NPDES permit in accordance with the Act and regulations adopted under the Act without any additional fee becoming due, unless the proposed modifications would cause additional fees to be due under Section 325.205. If the proposed modification would cause additional fees to become due, the applicant shall submit the additional fee to the Agency with the proposed modifications to the Notice of Intent for a General NPDES permit or prior to permit issuance for an individual NPDES permit.

- c) If the applicant proposes a modification prior to a final Agency decision on whether to grant coverage under a general NPDES permit for which a fee has been paid under this Part, any applicable waiting periods for coverage under the general permit shall commence on the date that the modification and any required fee is received.
- d) If modifications to a Notice of Intent to pursue coverage under a general NPDES permit are received by the Agency from the applicant within 90 days after the date of denial of coverage under the general NPDES permit by the Agency, and if the modifications would allow coverage under the general NPDES permit to be approved, coverage will be issued without additional fees becoming due under this Part, unless the proposed modifications cause an increase in the required fee under Section 325.205. If the modifications cause an increase in the fees due under Section 325.205, the applicant shall submit the additional fee to the Agency with the modification.
- e) Except in those cases where a permit denial or specified permit conditions have been appealed to the Illinois Pollution Control Board in accordance with Section 40 of the Act, modifications to Notices of Intent to pursue coverage under general NPDES permits received by the Agency more than 90 days after the date of a denial of coverage under a general NPDES permit by the Agency shall be considered new applications subject to the fees specified in Section 325.205.

Section 325.320 Modifications to NPDES Permits and Sludge Generator or Sludge User Permits

- a) **Modifications to Pending Applications.**
Prior to a final Agency decision on a permit application for an NPDES permit or a sludge generator or sludge user permit, the applicant may propose modifications to the application in accordance with the Act and regulations adopted under the Act without any additional fee becoming due, unless the proposed modifications would cause additional fees to be due under Section 325.205.
- b) **Modifications to Existing Permits.**
 - 1) *If a requested modification to an existing NPDES permit causes a change in the applicable fee categories under Section 325.205 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. [415 ILCS 5/12.5(c)] For purposes of calculating the prorated fee due under this subsection (b)(1), partial months will be rounded down to the nearest whole month.*

- 2) If a requested modification to an existing sludge generator or sludge user permit causes a change in the applicable fee categories under Section 325.205 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. For purposes of calculating the prorated fee due under this subsection (b)(2), partial months will be rounded down to the nearest whole month.
- c) If modifications to a permit application for an individual NPDES permit or a sludge generator or sludge user permit are received by the Agency from the applicant within 90 days after the date of a permit denial by the Agency, and if the modifications would allow approval of the application, a permit will be issued without additional fees becoming due under this Part, unless the proposed modifications cause an increase in the required fee under Section 325.205. If the modifications cause an increase in the fees due under Section 325.205, the applicant shall submit the additional fee to the Agency with the modification.
- d) Except in those cases in which specified conditions of an individual NPDES permit or sludge generator or sludge user permit have been appealed to the Illinois Pollution Control Board in accordance with Section 40 of the Act, modifications received by the Agency more than 90 days after the date of a permit denial by the Agency shall be considered new applications subject to the fees specified in Section 325.205.

SUBPART D: NOTICES, TERMINATIONS AND TRANSFER OF OWNERSHIP

Section 325.410 Annual Fee Notices for Existing Permits and Permit Renewals

- a) Each year the Agency shall send a fee notice by mail to each existing permit holder subject to a fee under this Part 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. [415 ILCS 5/12.5(b)] The address of record is the address provided on the permit application or a billing address provided on a subsequent address correction form submitted to the Agency.
- b) Except as provided in Section 325.420 with respect to initial fees under new permits and as provided in Section 325.320 for certain modifications of existing permits, fees payable under this Part 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. [415 ILCS 5/12.5(b)]
- c) The Agency may send second notices for unpaid fees and interest prior to initiating referral to the Comptroller's Offset System pursuant to 15 ILCS 405/10.05, referral to the Department of Revenue's Debt Collection Bureau

pursuant to 30 ILCS 210 or other collection procedures.

- d) In the event the Agency inadvertently sends a fee notice to a permit holder whose NPDES, sludge generator or sludge user permit has expired and is not lawfully administratively continued because the NPDES permit holder did not apply for renewal not less than 180 days prior to the permit expiration date or the sludge generator or sludge user permit holder did not apply for renewal not less than 90 days prior to the permit expiration date, payment of a fee by the recipient of the notice will not be construed as indicia of possession of a valid NPDES or sludge generator or sludge user permit.

(Source: Amended at 37 Ill. Reg. 7484, effective June 1, 2013)

Section 325.420 Initial Annual Fee Notices for New Permits

For new individual NPDES and sludge generator or sludge user permits, the *Agency shall provide notice of the amount of the fee to the applicant during its review of the application.* [415 ILCS 5/12.5(c)] For NPDES permits, this notice will be provided to the applicant during the 15 day notice period. For new permits issued in June, this notice will include the annual fee due for the following fiscal year and no fee notice will be sent by the Agency pursuant to Section 325.410(a) for that fiscal year.

Section 325.425 Due Dates

All annual fees due under this Part must be received by the due date indicated in the annual fee notice to avoid accrual of interest charges.

Section 325.430 Terminations of NPDES Permits and Sludge Generator and Sludge User Permits

- a) It shall be the obligation of every permit holder required to pay a fee pursuant to this Part to notify the Agency, in writing, of the cessation of or reduction in operation at the facility or completion or termination of the permitted activity and to request modification or termination of all appropriate permits.
- b) Termination and permit modification requests shall be on forms prescribed by the Agency and signed by the permit holder. All termination requests and permit modifications must be sent to:

Illinois Environmental Protection Agency
Division of Water Pollution Control
P. O. Box 19276
Springfield, Illinois 62794-9276

- c) The permit holder remains liable for annual discharge fees provided in the fee

notice billing statement mailed by the Agency until the expiration date specified in the permit unless a request for termination of the facility's permit or permits is made in writing as provided in subsection (b) of this Section prior to the due date contained in the annual fee notice.

- d) Submittal of a termination request before the due date contained in the annual fee notice will stay the accrual of interest while the termination request is under review by the Agency.

(Source: Amended at 37 Ill. Reg. 7484, effective June 1, 2013)

Section 325.435 Transfer of Ownership and Fees

- a) When there is a change in ownership or operational control at a permitted facility subject to one or more of the fees in this Part, the new owner or operator will become liable for all fees that accrue as of the date of transfer of permit coverage.
- b) Transfer of permit coverage may occur only in the following ways (40 CFR 112.61):
 - 1) The permit is modified or revoked and reissued;
 - 2) The permit is transferred by minor modification; or
 - 3) The permit is transferred by automatic transfer.
- c) **Transfer by Minor Modification.** A change in ownership or operational control of a facility will be considered a minor modification of an NPDES permit under 40 CFR 122.63(d) provided that no other change in the permit is necessary, all past due fees have been paid, and a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittees has been submitted to the Agency.
- d) **Transfer by Automatic Transfer.** An NPDES permit will be automatically transferred pursuant to 40 CFR 122.61(b) if all of the following conditions are met:
 - 1) The current permittee notifies the Agency at least 30 days in advance of the proposed transfer date;
 - 2) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage and liability between them;
 - 3) All past due fees have been paid; and

- 4) The Agency does not notify the existing and proposed permittees of its intent to modify or revoke and reissue the permit. If this notice is not received, the automatic transfer is effective on the date specified in the agreement between the parties.

SUBPART E: RESOLUTION OF DISPUTES

Section 325.510 Request for Reconsideration

- a) The permit holder may request reconsideration of the amount of the NPDES permit fee or sludge generator or sludge user permit fee as determined by the Agency pursuant to Section 325.205, within 45 days after issuance of the annual fee notice. Failure to request reconsideration within this period shall constitute waiver of all rights to seek reconsideration of the amount due from the Agency and will result in waiver of right to appeal pursuant to Section 325.530.
- b) All requests for reconsideration shall be in writing and shall include all pertinent facts and arguments in support of the request. The request shall be addressed to:

Illinois Environmental Protection Agency
Division of Water Pollution Control
Billing Coordinator
Mail Code #15
P. O. Box 19276
Springfield, Illinois 62794-9276
- c) The permit holder shall pay the amount of the fee it believes it owes at the time of the request for reconsideration and any remainder shall be subject to interest and penalties if the request for reconsideration is denied.

Section 325.520 Agency Response

- a) The Agency shall respond in writing to any request for reconsideration pursuant to Section 325.510 within 45 days after receipt of the request. The written response shall constitute final Agency action. Failure by the Agency to respond within 45 days after receipt of the request shall be considered a denial of the request and shall also constitute final Agency action.
- b) Upon written notification to the permit holder, the Agency may extend the response period under subsection (a) by up to an additional 45 days.

Section 325.530 Appeal of Final Agency Action

- a) Pursuant to Section 5(d) of the Act and these regulations, the Pollution Control Board may hear appeals of final Agency action denying requests for reconsideration of permit fee determinations made by the Agency under this Part for fees due under Section 12.5 of the Act.
- b) To appeal final Agency action under this Part, the permit holder or applicant must file a petition for review with the Pollution Control Board under the procedures required by 35 Ill. Adm. Code 105.206 within 35 days after service of final Agency action or the date the decision was due, whichever is later.

SUBPART F: FAILURE TO COMPLY WITH SECTION 12.5 OF THE ACT

Section 325.605 Failure to Pay Annual NPDES and Sludge Generator or Sludge User Discharge Fees

Failure to submit the fee required under Section 12.5 of the Act by the due date constitutes a violation of Section 12.5 of the Act.

Section 325.610 Interest on Unpaid Fees

- a) *Late payments shall incur an interest penalty, calculated at the rate in effect from time to time for tax delinquencies under Section 1003(a) of the Illinois Income Tax Act [35 ILCS 5/1003], from the date the fee is due until the date the fee payment is received by the Agency. [415 ILCS 5/12.5(d)]*
- b) Interest rates are adjusted on a semiannual basis, on January 1 and July 1, as provided in Section 3-2(b) of the Uniform Penalty and Interest Act [35 ILCS 735/3-2(b)].
- c) The Agency does not have authority to waive interest penalties.
- d) Interest penalties apply to unpaid fee principal amounts only. Interest penalties are not incurred on prior unpaid interest amounts.
- e) Interest penalties are calculated daily and are applied to fee amounts not paid by the due date.
- f) Notification of any accrued interest penalties will be provided to the permit holder in the annual fee notice described in Section 325.410.

Section 325.620 Collection Procedures for Unpaid Fees

The Agency may utilize any available collection procedures to recover unpaid fees under Section 12.5 of the Act. These may include, but are not limited to, enforcement actions pursuant to Section 31 of the Act, submittal of the unpaid amounts for Comptroller's Offset pursuant to 30 ILCS 210, or submittal of the unpaid fee to the Department of Revenue's Debt Collection Bureau pursuant to 30 ILCS 210.