

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

PART 320
FEES FOR CONSTRUCTION PERMITS REQUIRED UNDER SECTION 12(b) OF THE
ILLINOIS ENVIRONMENTAL PROTECTION ACT

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AUTHORITY: Implementing and authorized by Section 12.2 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111½, par. 1012.2) [415 ILCS 5/12.2].

SOURCE: Adopted at 17 Ill. Reg. 11461, effective July 8, 1993; amended at 33 Ill. Reg. 11464, effective July 22, 2009.

SUBPART A: GENERAL

Section 320.101 Definitions

- a) Unless specified otherwise, all terms shall have the meaning set forth in the Act.
- b) For purposes of this Part, the following definitions apply:

- 1) "Act" means the Environmental Protection Act [415 ILCS 5].
- 2) "Agency" means the Illinois Environmental Protection Agency.
- 3) "Applicant" means a person who applies for a construction permit to install or extend sewers, treatment works, industrial pretreatment works, or industrial wastewater source, pursuant to Title III of the Act or 35 Ill. Adm. Code.Subtitle C or D.
- 4) "Design Population" means:
 - A) for purposes of new sewer systems, wasteload in terms of population equivalents contained within the proposed service area covered by the construction permit application;
 - B) for purposes of sewer extensions or connections, additional wasteload in terms of population equivalents contained within the service area added by the entire sewer proposed in the construction permit application.
- 5) "Fee" means the fee prescribed by Section 12.2 of the Act.
- 6) *"Industrial" refers to those industrial users referenced in section 502(18) of the federal Clean Water Act (33 USC 1362(18)) and regulations adopted pursuant to that Act. (Section 12.2(h) of the Act)*
- 7) "NPDES Permit" means National Pollutant Discharge Elimination System Permit.
- 8) "Population Equivalent" means that one population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD5 (five day biochemical oxygen demand) and 0.20 pounds of suspended solids, on the basis of the highest individual value of the three parameters.
- 9) *"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing those pollutants into a publicly owned treatment works or publicly regulated treatment works. (Section 12.2(h) of the Act)*
- 10) "Sewage" means water-carried human and related wastes from any source (35 Ill. Adm. Code 301.385).
- 11) "Sewer" means a stationary means of transport, excluding natural waterways, constructed and operated primarily for the purpose of

collecting and transporting sewage.

- 12) *"Toxic pollutants" means those pollutants defined in section 502(13) of the federal Clean Water Act (33 USC 1362(13)) and regulations adopted pursuant to that Act (Section 12.2(h) of the Act). For purposes of this Part, this definition is limited to 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 (2007).*

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)

Section 320.102 Purpose

The purpose of this Part is to establish procedures for collecting fees from applicants for construction permits required under Section 12(b) of the Act.

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)

Section 320.103 Applicability

- a) Except as provided otherwise in subsection (c), this Part applies to each applicant for a construction permit required under Title III of the Act, or 35 Ill. Adm. Code.Subtitle C, to install or extend sewers.
- b) Except as provided otherwise in subsection (c), this Part applies to each applicant for a construction permit required under Title III of the Act, or 35 Ill. Adm. Code.Subtitle C or D, to install or extend any treatment works, industrial pretreatment works, or industrial wastewater source. No fee shall be assessed under this Section if:
 - 1) *A treatment works or wastewater source is directly covered and authorized under an NPDES permit issued by the Agency;*
 - 2) *A treatment works, industrial pretreatment works, or industrial wastewater source is under or pending construction authorized by a valid construction permit issued by the Agency prior to July 1, 2003 during the term of that construction permit; or*
 - 3) *A treatment works, industrial pretreatment works, or industrial wastewater source for which a completed construction permit application has been received by the Agency prior to July 1, 2003 with respect to the permit issued under that application. (Section 12.2(a) of the Act)*
- c) Pursuant to Section 12.2(e) of the Act, this Part does not apply to:

- 1) *Any department, agency or unit of State government for installing or extending a sewer;*
- 2) *Any unit of local government with which the Agency has entered into a written delegation agreement under Section 4 of the Act which allows such unit to issue construction permits under Title III of the Act, or regulations adopted thereunder, for installing or extending a sewer; or*
- 3) *Any unit of local government or school district for installing or extending a sewer where both of the following conditions are met:*
 - A) *The cost of the installation or extension is paid wholly from monies of the unit of local government or school district, State grants or loans, federal grants or loans, or any combination thereof; and*
 - B) *The unit of local government or school district is not given monies, reimbursed or paid, either in whole or in part, by another person (except for State grants or loans or federal grants or loans) for the installation or extension. (Section 12.2(e) of the Act)*

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)

Section 320.104 Relation to Other Fee Systems

Except as provided otherwise in Section 320.103(b) and (c), 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 law.

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)

Section 320.105 Severability

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

SUBPART B: PROCEDURES FOR DETERMINATION AND PAYMENT OF FEES

Section 320.201 Amount of the Fee

- a) Each applicant or person required to pay a fee under this Part pursuant to Section 320.103 shall pay a fee to be submitted with the permit application. See 35 Ill. Adm. Code 370.Appendix A and 35 Ill. Adm. Code 370.Appendix B for guidance in determining design population.

- b) The amount of fee for domestic sewer extensions is as follows:
- 1) *\$100 for any domestic sewer constructed to serve a design population of 1;*
 - 2) *\$400 for any domestic sewer constructed to serve a design population of 2 to 20;*
 - 3) *\$800 for any domestic sewer constructed to serve a design population greater than 20 but less than 101;*
 - 4) *\$1,200 for any domestic sewer constructed to serve a design population greater than 100 but less than 500; and*
 - 5) *\$2,400 for any domestic sewer constructed to serve a design population of 500 or more.*
- c) *The amount of the fee for sources other than domestic sewer extensions is as follows:*
- 1) *\$1,000 for any industrial wastewater source that does not require pretreatment of the wastewater prior to discharge to the publicly owned treatment works or publicly regulated treatment works;*
 - 2) *\$3,000 for any industrial wastewater source that requires pretreatment of the wastewater for non-toxic pollutants prior to discharge to the publicly owned treatment works or publicly regulated treatment works;*
 - 3) *\$6,000 for any industrial wastewater source that requires pretreatment of the wastewater for toxic pollutants prior to discharge to the publicly owned treatment works or publicly regulated treatment works; and*
 - 4) *\$2,500 for construction relating to land application of industrial sludge or spray irrigation of industrial wastewater.*
- d) *The Agency shall deny any construction permit application that does not contain the appropriate fee as required in subsection (b) or (c).*
- e) *All fees collected by the Agency under this Part shall be deposited into the Environmental Protection Permit and Inspection Fund in accordance with Section 22.8 of the Act. (Section 12.2(c) of the Act)*

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)

Section 320.202 Manner of Payment

- a) Payment of the fee must be by certified or cashiers check for each permit application payable to "Treasurer, State of Illinois", designated to the Environmental Protection Permit and Inspection Fund with the applicant's Federal Employer Identification Number (FEIN) or Social Security number appearing on the face of the check and shall be submitted along with the permit application to:

Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

- b) Payment shall not include any fees due to the Agency for any purpose other than the fee due under Section 320.201.

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)

Section 320.203 Prohibition Against Refund

No fee remitted to the Agency under this Part shall be refunded in whole or in part at any time or for any reason. (Section 12.2(f) of the Act)

Section 320.204 Audit and Access to Records

- a) Each applicant for which a fee is due under this Part shall preserve and maintain all records relating to calculation of the fee for at least 5 years after the date on which the permit application is received by the Agency.
- b) The records described in subsection (a) of this Section shall be available to the Agency or its authorized representative (e.g., auditor, contractor) for examination during normal business hours.

SUBPART C: PROCEDURES FOR PROCESSING PERMIT APPLICATIONS

Section 320.301 Permit Applications Containing the Entire Fee

- a) Applications received by the Agency will be logged in and assigned a receipt date and number. The application shall be accepted if the following conditions are met:
 - 1) The application is complete in accordance with Title III of the Act and regulations adopted thereunder; and

- 2) The entire fee due under Section 320.201 is included with the application.
- b) *The Agency shall, not later than 45 days following the receipt date assigned under subsection (a), either approve that application and issue a permit or tender to the applicant a written statement setting forth with specificity the reasons for the disapproval of the application and denial of a permit in accordance with Sections 12.2 and 39(a) of the Act. If the Agency takes no final action within 45 days after the filing of the application for a permit, the applicant may deem the permit issued.* (Section 12.2(g) of the Act) This 45 day deadline for Agency action may be waived by the applicant in writing.
- c) *Prior to a final Agency decision on a permit application for which a fee has been paid under this Part, the applicant may propose modification to the application in accordance with the Act and regulations adopted under the Act without any additional fee becoming due, unless the proposed modifications cause an increase in the design population served by the sewer specified in the permit application before the modifications or the modifications cause a change in the applicable fee category stated in Section 320.201. If the modifications cause such an increase or change the fee category and the increase results in additional fees being due under Section 320.201, the applicant shall submit the additional fee to the Agency with the proposed modifications.* (Section 12.2(d) of the Act) If the applicant proposes a modification prior to a final Agency decision on the permit application, the 45 day review period described in subsection (b) shall commence on the date that the modification and any required fee pursuant to the modification, as provided in this subsection, is received.
- d) If modifications to the permit application are received by the Agency from the applicant within 90 days after the date of permit denial in accordance with subsection (b), 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 design population served by the sewer specified in the permit application before the modifications or the modifications cause a change in the applicable fee category stated in Section 320.201. If the modifications cause such an increase or change the fee category additional fees will be due under Section 320.201, and the applicant shall submit the additional fee to the Agency with the modifications.
- e) If modifications to an existing permit are proposed before the date specified in the permit for completion of construction in accordance with the Act and regulations adopted under the Act, or before the expiration of the time limits provided in 35 Ill. Adm. Code 309.242(a) or 35 Ill. Adm. Code 404.109 if not specified in the permit, 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 design population served by the sewer specified in the permit application before the modifications or the

modifications cause a change in the applicable fee category stated in Section 320.201. If the modifications cause such an increase, or change the fee category, additional fees will be due under Section 320.201, and the applicant shall submit the additional fee to the Agency with the modifications.

- f) Requests for extensions of permit expiration dates or requests for modifications to an existing permit other than those specified in this Section shall be considered new applications subject to the fees specified in Section 320.201.
- g) Except in those cases in which permit denial has been appealed to the Illinois Pollution Control Board in accordance with Section 40 of the Act, submissions received by the Agency more than 90 days after the date of permit denial in accordance with subsection (b) shall be considered new applications subject to the fees specified in Section 320.201.

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)

Section 320.302 Permit Applications Not Containing the Entire Fee

Applications not containing the entire fee shall be considered incomplete. The Agency shall take the following actions in response to such applications:

- a) The Agency shall deposit any fees submitted along with the application and shall notify the applicant of the fee deficiency. Within 30 days after this notification, the applicant must submit the balance of the fee that is due.
 - 1) If the entire fee due is received by the Agency within 30 days after issuance of the notice under subsection (a), the Agency shall accept the application in accordance with Section 320.301.
 - 2) If the required fee is not received within 30 days after the notice of deficiency, the permit shall be considered denied.
- b) The 45 day review period described in Section 320.301(b) shall commence on the date of acceptance assigned in accordance with Section 320.301(a).

(Source: Amended at 33 Ill. Reg. 11464, effective July 22, 2009)