

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 691
TESTING FEES FOR ANALYTICAL SERVICES

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AUTHORITY: Implementing and authorized by Section 17.7 of the Environmental Protection Act [415 ILCS 5/17.7].

SOURCE: Adopted at 14 Ill. Reg. 2045, effective January 18, 1990; amended at 19 Ill. Reg. 12648, effective August 24, 1995; amended at 33 Ill. Reg. 7072, effective May 13, 2009.

SUBPART A: GENERAL

Section 691.101 Purpose and Applicability

- a) The purpose of this Part is to establish procedures for participation by community water supplies in the Agency's drinking water analysis program and for the determination and collection of fees for participation in the program.
- b) This Part applies to community water supplies. Each community water supply in the State is a participant in the Agency's drinking water analysis program unless it declares its intent to not participate, as authorized by Section 691.105(c) of this Part.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.102 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:

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

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Certified laboratory" means any laboratory approved by the Agency pursuant to 35 Ill. Adm. Code 183, or other department or agency of State government if such authority is delegated for the specific parameters to be examined, pursuant to Section 4(n) or (o) of the Act.

"Community water supply" or "supply" means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents. (Section 3.145 of the Act)

"Council" means the Community Water Supply Testing Council established by Section 17.7(f) of the Act.

"Drinking water analysis program" or "Program" means the laboratory analysis of community water supplies by the Agency for any community water supply that does not declare its intent to not participate, in accordance with Section 691.105(c), and pays the fees established pursuant to Subpart B of this Part.

"Laboratory testing" means the analysis of drinking water by the Agency required under 35 Ill. Adm. Code Subtitle F and federal regulations established under the Safe Drinking Water Act (42 USC 300f).

"Parent community water supply" or "Parent supply" is a community water supply that uses or sells potable water derived from its own sources or receives only a portion of its potable water from other potable water sources.

"Program participation fee" or "fee" means the amount due from the community water supply for analytical services under the Program.

"Public water supply" or "PWS" means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply". (Section 3.365 of the Act)

"Purchasing community water supply" or "Purchasing supply" is a community water supply that purchases or receives its potable water entirely from another potable water source.

"Service connection" means the opening, including all fittings and appurtenances at the water main through which water is supplied to the user.

(Source: Amended at 33 Ill. Reg. 7072, effective May 13, 2009)

Section 691.103 Payment of Annual Testing Fee Required Prior to Laboratory Testing by the Agency (Repealed)

(Source: Repealed at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.104 Period of Program Participation

Except as provided by Section 691.105, each community water supply shall participate in the program for a 3-year period commencing July 1, 1995, and for additional 3-year periods thereafter. Any community water supply entering the program after the commencement of a 3-

year period will be assigned a period of participation designed to expire at the end of the current 3-year cycle.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.105 Nonparticipation in the Program

- a) In January of the year in which the 3-year program period commences, the Agency will notify each community water supply of the supply's option to not participate in the Program and to have its drinking water analyses performed by a certified laboratory operated by an entity other than the Agency. Each year, the Agency will inform the community water supply of the fee for program participation that has been determined for that community water supply as provided in Subpart B of this Part.
- b) Any community water supply may indicate its intention to not participate in the Program by notifying the Agency, using the form provided by the Agency, within 45 days after issuance of the notice.
- c) No program participation fee shall be due from any community water supply that duly notifies the Agency of its nonparticipation as required by subsection (b).
- d) If the community water supply declares its nonparticipation in the program or fails to pay the required fees, the Agency shall not perform any laboratory testing for the supply during the program participation period unless the services are otherwise paid for, except that the Agency has the duty under Section 4(p) of the Act to analyze samples from such community water supplies only for:
 - 1) Up to six total coliform samples per sampling period as required under Section 4(p) of the Act; and
 - 2) Contaminants for which a maximum allowable concentration in finished drinking water has been established by Board regulation in 35 Ill. Adm. Code, Subtitle F prior to January 1, 1988.
- e) *Community water supplies that choose not to participate in the program or do not pay the fees shall have the duty to analyze all drinking water samples as required by State or federal safe drinking water regulations established after enactment of the federal Safe Drinking Water Act Amendments of 1986. (Section 17.7 of the Act).*

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.106 Relation to Other Fee Systems (Repealed)

(Source: Repealed at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.107 Severability

If any provision of this Part or the application thereof to any person or in any circumstances 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: PROGRAM PARTICIPATION FEES

Section 691.200 Fee Payment

- a) Community water supplies must pay all annual testing fees due under this Part prior to the initiation of any laboratory testing by the Agency.
- b) Payment of fees under this Part does not entitle a community water supply to any analytical services other than those provided by the Program.

(Source: Added at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.201 Calculation of Fee

- a) *The Agency, with the concurrence of the Council, shall determine the fee for participating in the Program pursuant to Section 17.7 of the Act. The fee determination shall be based upon actual and anticipated costs for testing and the associated administrative costs of the Agency and the Council.*
- b) *By October 1 of each year, the Agency shall submit its fee determination and supporting documentation for the forthcoming calendar year to the Council. Before the following January 1, the Council shall hold at least one regular meeting to consider the Agency's determination. If the Council concurs with the Agency's determination, it shall take effect. (Section 17.7 of the Act)*
- c) In determining the fees, the Agency and the Council shall consider, but are not limited to, the following criteria:
 - 1) number of service connections of the community water supply (see Section 691.203);
 - 2) maximum and minimum testing fees for all community water supplies;
 - 3) single or multiple payment plans for annual or multi-year fees; and
 - 4) testing requirement differences among community water supplies based on considerations including but not limited to the following:

- A) the potable water is derived from a groundwater or surface water source;
- B) the community water supply is a parent or purchasing supply; or
- C) the differences in required analytical services.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.202 Annual Testing Fee After Calendar Year 1990 (Repealed)

(Source: Repealed at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.203 Determining the Number of Service Connections

- a) For purposes of determining the testing fee under Sections 691.201, the community water supply shall include only those service connections for which the community water supply is:
 - 1) Directly metering or collecting revenue; or
 - 2) Otherwise providing delivery of potable water.
- b) When finished water is sold to another community water supply, the selling community water supply shall not include the service connections of the purchasing community water supply for purposes of calculating the testing fee under Sections 691.201. The purchasing community water supply shall include its service connections for purposes of calculating the testing fee under Sections 691.201.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

SUBPART C: PROCEDURES FOR BILLING AND COLLECTING PROGRAM PARTICIPATION FEES

Section 691.301 Billing Statements

The Agency shall send a billing statement for the testing fee to each community water supply in January of each calendar year.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.302 Due Date of Payment

The due date of payment shall be 45 days after issuance of the billing statement to the community water supply.

Section 691.303 Form of Payment

- a) Payment must be by check or money order payable to "Treasurer, State of Illinois" and shall be accompanied by the name of the community water supply and the facility identification number assigned by the Agency's Division of Public Water Supplies.
- b) Payment and all supporting documentation must be mailed together in a single package to:

Illinois Environmental Protection Agency
Data Entry and Cash Receipts Unit
Fiscal Services Section
P.O. Box 19276
Springfield, Illinois 62794-9276

- c) Payment shall not include any fees due to the Agency for any purpose other than participation in the Program.
- d) Any testing fee remitted to the Agency shall not be refunded at any time or for any reason, either in whole or in part.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.304 Prohibition Against Refund (Repealed)

(Source: Repealed at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.305 Overpayment or Underpayment of Program Participation Fee

- a) If the amount remitted is more than the amount due under this Part, the community water supply's account shall be credited by the amount of the overpayment.
- b) If the amount remitted is less than the amount due under this Part, the community water supply will be billed for the balance due.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.306 Audit and Access to Records

- a) Each community water supply participating in the Program shall preserve and maintain all records relating to the number of service connections used in calculating the fee for at least 5 years after the close of the participation.

- b) The records described in subsection (a) shall be available to the Agency or its authorized representative for examination during normal business hours.

(Source: Amended at 19 Ill. Reg. 12648, effective August 24, 1995)

SUBPART D: DISPUTE RESOLUTION PROCEDURES

Section 691.401 Council's Non-Concurrence With the Agency Fee Determination

If the Council does not concur with the Agency fee determination by January 1 of the calendar year in which the testing fee was intended to be effective or if the Agency and the Council do not agree on any other issue related to the testing fee program by January 1 of the same calendar year, the Agency and the Council shall make every effort to resolve the dispute in question within the time frame established in Section 691.403 below.

(Source: Added at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.403 Dispute Resolution

- a) If the Agency and the Council cannot agree on issues related to the program, the Council shall initiate procedures for an external audit of the program.
- b) The results of the external audit, including the recommendation, shall serve as the basis for Agency and Council deliberations regarding the issue in dispute.
- c) If the conclusions of the external audit will not be completed by January 1 of the calendar year in which the testing fee was intended to take effect, the Agency shall issue billing statements to community water supplies in amounts that are derived from the Agency fee determination.
- d) If the Agency and the Council deliberations conclude that, based upon the external audit, the fee should be different from the Agency fee determination amount, the Agency shall make the necessary adjustments in the subsequent fiscal year's Agency fee determination amount.

(Source: Added at 19 Ill. Reg. 12648, effective August 24, 1995)

Section 691.APPENDIX A Agreement for Reduced Participation in Sample Analysis (Repealed)

(Source: Repealed at 19 Ill. Reg. 12648, effective August 24, 1995)