

SUBTITLE B

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 251
PROCEDURES FOR COLLECTION OF AIR POLLUTION SITE FEES

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AUTHORITY: Implementing and authorized by Section 9.6 of the Environmental Protection Act [415 ILCS 9.6.].

SOURCE: Adopted at 10 Ill. Reg. 19968, effective November 14, 1986; emergency amendments at 13 Ill. Reg. 955, effective January 1, 1989 for a maximum of 150 days; amended at 13 Ill. Reg. 8867, effective May 30, 1989; amended at 22 Ill. Reg. 6652, effective March 31, 1998; amended at 28 Ill. Reg. 1370, effective January 7, 2004; amended at 34 Ill. Reg. 19007, effective November 22, 2010; amended at 36 Ill. Reg. 6803, effective April 20, 2012.

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SUBPART A: INTRODUCTION

Section 251.101 Purpose

The purpose of this Part is to establish a system for determination and for collection of air pollution site fees, except as provided in Section 39.5 of the Act.

(Source: Amended at 22 Ill. Reg. 6652, effective March 31, 1998)

Section 251.103 Definitions

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

"Agency": The Environmental Protection Agency established by the Act.

"Annual": Of the period of one year commencing on the original billing date of a particular air pollution site fee.

"Annual Fee": The air pollution site fee prescribed by Section 9.6 of the Act and collected by the Agency pursuant to this Part.

"Greenhouse Gas" or "GHG" means the air pollutant defined in 40 CFR 86.1818-12(a) as the aggregate group of 6 greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride.

"Permitted to Emit": The sum of allowable emissions of regulated pollutants at a site from all emission sources which have received an operating permit from the Agency's Bureau of Air.

"Regulated Air Pollutant": Any contaminant which is emitted to the atmosphere and which is regulated under the Act or the regulations of the Illinois Pollution Control Board and receives an air pollution operating permit after January 1, 1986.

"Site": Any location, place, tract of land, and facilities, including but not limited to, buildings and improvements used for purposes subject to regulation or control by the Environmental Protection Act or regulations thereunder.

(Source: Amended at 36 Ill. Reg. 6803, effective April 20, 2012)

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SUBPART B: PROCEDURES FOR BILLING AND COLLECTION
OF AIR POLLUTION SITE FEES**Section 251.201 Amount of Air Pollution Site Fee**

- a) Except as provided in Section 39.5 of the Act, an annual air pollution site fee shall be paid by the owner or operator of an air pollution site, in accordance with the requirements of this Part, in the amounts set forth as follows:
 - 1) For any site permitted to emit less than 25 tons per year of any combination of regulated air pollutants except greenhouse gases, the annual site fee shall be \$200, increasing, beginning January 1, 2012, to \$235 per year for lifetime operating permits and \$235 per year for federally enforceable State operating permits.
 - 2) For any site permitted to emit at least 25 tons per year but less than 100 tons per year of any combination of regulated air pollutants, except greenhouse gases, the annual site fee shall be \$1,800 and increases, beginning January 1, 2012, to \$2,150 per year.
 - 3) For any site permitted to emit at least 100 tons per year but not more than 191 tons per year of any combination of regulated air pollutants, except greenhouse gases, the annual site fee shall be \$18.00 per ton, increasing January 1, 2012 to \$21.50 per ton.
 - 4) For any site permitted to emit more than 191 tons per year of any combination of regulated air pollutants, except greenhouse gases, the annual site fee shall be \$3,500, increasing to \$4,112 beginning January 1, 2012.
 - 5) The provisions of this Section shall not apply to a site permitted solely as a retail liquid dispensing facility that has air pollution control equipment.
- b) The Agency shall annually assess the amount of the air pollution site fee due based upon its records of permitted sites and allowable emissions from those sites.
- c) It shall be the obligation of the owner or operator to notify the Agency's Bureau of Air, in writing, of the cessation of or reduction in the operation at the site and to request revision or withdrawal of all appropriate operating permits. Notification and requests shall be sent to:

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Illinois Environmental Protection Agency
Bureau of Air, Permit Section
Attention: Records Unit
P.O. Box 19276
Springfield, Illinois 62794-9276

(Source: Amended at 36 Ill. Reg. 6803, effective April 20, 2012)

Section 251.202 Withdrawal of Permits

The owner or operator of a site remains liable for the annual site fee unless a request for withdrawal of all operating permits is made in writing to the Agency's Division of Air Pollution Control, Permit Section, prior to the date the site fee becomes due.

(Source: Amended at 28 Ill. Reg. 1370, effective January 7, 2004)

Section 251.203 Agency Billing Procedures

- a) The amount of the air pollution site fee and the due date of payment shall be included on a billing statement sent to the owner or operator of a site by the Agency's Bureau of Air.
- b) For each year subsequent to the year of issuance as described in subsection (a), the amount of the air pollution site fee and the due date of payment shall be included on a billing statement addressed to the owner or operator of a site and mailed by the Agency at least 30 days prior to the due date of payment.
- c) In the event of an increased assessment in fees, the Agency shall notify the owner or operator of a site of such increase with the annual billing.
- d) If the owner or operator of a site has elected to use the advance payment method described in Section 251.208(a)(2), the annual billing statement shall include notification of increased assessment in fees, the status of the fee account, and a statement of any additional fees due to the Agency from the owner or operator of the site.

(Source: Amended at 22 Ill. Reg. 6652, effective March 31, 1998)

Section 251.208 Time and Method of Payment

- a) The owner or operator of a site shall make payment to the Agency by either of the following methods:

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- 1) Payment shall be made annually in the amount described in Section 251.201; or
 - 2) Payment may be made in advance in the amount described in Section 251.201 multiplied by the number of years for which the operating permit has been issued to the owner or operator of a site by the Agency's Bureau of Air or multiplied by the number of years remaining on the longest-term valid operating permit issued to the owner or operator of a site.
- b) The due date of payment for each year shall be on the date 45 days subsequent to the original billing date.

(Source: Amended at 22 Ill. Reg. 6652, effective March 31, 1998)

Section 251.210 Form of Payment

- a) Payment shall be made by check or money order payable to "Treasurer, State of Illinois," and shall be accompanied by the site name and identification number assigned by the Agency's Division of Air Pollution Control.
- b) Payment shall be mailed to:

Illinois Environmental Protection Agency
Fiscal Services Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
- c) Payment shall not include any fees due to the Agency for any purpose other than the air pollution site fee.

(Source: Amended at 34 Ill. Reg. 19007, effective November 22, 2010)

Section 251.212 Return of Site Fee (Repealed)

(Source: Repealed at 13 Ill. Reg. 8867, effective May 30, 1989)

Section 251.215 Prohibition Against Refund

Any air pollution site fee remitted to the Agency in a correct amount shall not be refunded at any time or for any reason, either in part or in full. Overpayments will be credited pursuant to

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Section 251.208.

(Source: Amended at 13 Ill. Reg. 8867, effective May 30, 1989)

SUBPART C: RESOLUTION OF DISPUTES

Section 251.301 Request for Reconsideration

- a) The owner or operator of a site shall request reconsideration of the amount of the air pollution site fee as determined by the Agency pursuant to Section 251.201(a)(1) and (2) within 30 days after issuance of a billing statement. Failure to request reconsideration within this period shall constitute waiver of all rights to seek reconsideration of the amount from the Agency and will result in waiver of right to appeal pursuant to Section 251.310.
- b) All requests for reconsideration shall be in writing and shall include all pertinent facts and arguments in support of the request. Such requests shall be addressed to:

Illinois Environmental Protection Agency
Bureau of Air, Permit Section
Attention: Records Unit
P. O. Box 19276
Springfield, Illinois 62794-9276

(Source: Amended at 34 Ill. Reg. 19007, effective November 22, 2010)

Section 251.305 Effect of Request for Reconsideration

The submission of a request for reconsideration to the Agency shall automatically stay the due date of payment to a date 30 days subsequent to final Agency action on the request for reconsideration.

Section 251.308 Agency Response

The Agency shall respond in writing to any request for reconsideration pursuant to Section 251.305 within 30 days of receipt of the request. Such written response shall constitute final Agency action. Failure by the Agency to respond within 30 days of receipt of the request shall be considered a denial of the request and shall also constitute final Agency action.

Section 251.310 Appeal of Final Agency Action

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The owner or operator of a site may appeal the Agency's determination of the air pollution site fee pursuant to the Administrative Review Law [735 ILCS 5/ART. III].

(Source: Amended at 22 Ill. Reg. 6652, effective March 31, 1998)