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State NPDES Authority Statutes:

Illinois

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State NPDES Authority Statutes: Illinois

IL ST Ch. 415, ACT 5, T. III: Water Pollution

Current through the 2022 legislative session.

§ 5/11. Legislative Declaration.

(a) The General Assembly finds:

(1) that pollution of the waters of this State constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish, and aquatic life, impairs domestic, agricultural, industrial, recreational, and other legitimate beneficial uses of water, depresses property values, and offends the senses;

(2) that the Federal Water Pollution Control Act, as now or hereafter amended,1 provides for a National Pollutant Discharge Elimination System (NPDES) to regulate the discharge of contaminants to the waters of the United States;

(3) that the Safe Drinking Water Act (P.L. 93-523), as amended, provides for an Underground Injection Control (UIC) program to regulate the underground injection of contaminants;

(4) that it would be inappropriate and misleading for the State of Illinois to issue permits to contaminant sources subject to such federal law, as well as State law, which do not contain such terms and conditions as are required by federal law, or the issuance of which is contrary to federal law;

(5) that the Federal Water Pollution Control Act, as now or hereafter amended, provides that NPDES permits shall be issued by the United States Environmental Protection Agency unless (a) the State is authorized by and under its law to establish and administer its own permit program for discharges into waters within its jurisdiction, and (b) pursuant to such federal Act, the Administrator of the United States Environmental Protection Agency approves such State program to issue permits which will implement the provisions of such federal Act;

(6) that Part C of the Safe Drinking Water Act (P.L. 93-523), as amended, provides that the United States Environmental Protection Agency shall implement the UIC program authorized therein unless (a) the State is authorized by and under its law to establish and administer its own UIC program, and (b) pursuant to such federal Act, the Administrator of the United States Environmental Protection Agency approves such State program which will implement the provisions of such federal Act;

(7) that it is in the interest of the People of the State of Illinois for the State to authorize such NPDES and UIC programs and secure federal approval thereof, and thereby to avoid the existence of duplicative, overlapping or conflicting state and federal statutory permit systems;

(8) that the federal requirements for the securing of such NPDES and UIC permit program approval, as set forth in the Federal Water Pollution Control Act, as now or hereafter amended, and in the Safe Drinking Water Act (P.L. 93-523), as amended, respectively, and in regulations promulgated by the Administrator of the United States Environmental Protection Agency pursuant thereto are complex and detailed, and the General Assembly cannot conveniently or advantageously set forth in this Act all the requirements of such federal Act or all regulations which may be established thereunder.

(b) It is the purpose of this Title to restore, maintain and enhance the purity of the waters of this State in order to protect health, welfare, property, and the quality of life, and to assure that no contaminants are discharged into the waters of the State, as defined herein, including, but not limited to, waters to any sewage works, or into any well, or from any source within the State of Illinois, without being given the degree of treatment or control necessary to prevent pollution, or without being made subject to such conditions as are required to achieve and maintain compliance with State and federal law; and to authorize, empower, and direct the Board to adopt such regulations and the Agency to adopt such procedures as will enable the State to secure federal approval to issue NPDES permits pursuant to the provisions of the Federal Water Pollution Control Act, as now or hereafter amended, and federal regulations pursuant thereto and to authorize, empower, and direct the Board to adopt such regulations and the Agency to adopt such procedures as will enable the State to secure federal approval of the State UIC program pursuant to the provisions of Part C of the Safe Drinking Water Act (P.L. 93-523), as amended, and federal regulations pursuant thereto.

(c) The provisions of this Act authorizing implementation of the regulations pursuant to an NPDES program shall not be construed to limit, affect, impair, or diminish the authority, duties and responsibilities of the Board, Agency, Department or any other governmental agency or officer, or of any unit of local government, to regulate and control pollution of any kind, to restore, to protect or to enhance the quality of the environment, or to achieve all other purposes, or to enforce provisions, set forth in this Act or other State law or regulation.

§ 5/12. Action Prohibited.

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

(b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution, or designed to prevent water pollution, of any type designated by

Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

(c) Increase the quantity or strength of any discharge of contaminants into the waters, or construct or install any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this State, without a permit granted by the Agency.

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

(e) Sell, offer, or use any article in any area in which the Board has by regulation forbidden its sale, offer, or use for reasons of water pollution control.

(f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

No permit shall be required under this subsection and under Section 39(b) of this Act for any discharge for which a permit is not required under the Federal Water Pollution Control Act, as now or hereafter amended,[1] and regulations pursuant thereto.

For all purposes of this Act, a permit issued by the Administrator of the United States Environmental Protection Agency under Section 402 of the Federal Water Pollution Control Act,[2] as now or hereafter amended, shall be deemed to be a permit issued by the Agency pursuant to Section 39(b) of this Act. However, this shall not apply to the exclusion from the requirement of an operating permit provided under Section 13(b)(i).

Compliance with the terms and conditions of any permit issued under Section 39(b) of this Act shall be deemed compliance with this subsection except that it shall not be deemed compliance with any standard or effluent limitation imposed for a toxic pollutant injurious to human health.

In any case where a permit has been timely applied for pursuant to Section 39(b) of this Act but final administrative disposition of such application has not been made, it shall not be a violation of this subsection to discharge without such permit unless the complainant proves that final administrative disposition has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

(g) Cause, threaten or allow the underground injection of contaminants without a UIC permit issued by the Agency under Section 39(d) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any regulations or standards adopted by the Board or of any order adopted by the Board with respect to the UIC program.

No permit shall be required under this subsection and under Section 39(d) of this Act for any underground injection of contaminants for which a permit is not required under Part C of the Safe Drinking Water Act (P.L. 93-523), as amended,3 unless a permit is authorized or required under regulations adopted by the Board pursuant to Section 13 of this Act.

(h) Introduce contaminants into a sewage works from any nondomestic source except in compliance with the regulations and standards adopted by the Board under this Act.

(i) Beginning January 1, 2013 or 6 months after the date of issuance of a general NPDES permit for surface discharging private sewage disposal systems by the Illinois Environmental Protection Agency or by the United States Environmental Protection Agency, whichever is later, construct or install a surface discharging private sewage disposal system that discharges into the waters of the United States, as that term is used in the Federal Water Pollution Control Act, unless he or she has a coverage letter under a NPDES permit issued by the Illinois Environmental Protection Agency or by the United States Environmental Protection Agency or he or she is constructing or installing the surface discharging private sewage disposal system in a jurisdiction in which the local public health department has a general NPDES permit issued by the Illinois Environmental Protection Agency or by the United States Environmental Protection Agency and the surface discharging private sewage disposal system is covered under the general NPDES permit.

§ 5/12.2. Water Pollution Construction Permit Fees.

(a) Beginning July 1, 2003, the Agency shall collect a fee in the amount set forth in this Section:

> (1) for any sewer which requires a construction permit under paragraph (b) of Section 12, from each applicant for a sewer construction permit under paragraph (b) of Section 12 or regulations adopted hereunder; and
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> (2) for any treatment works, industrial pretreatment works, or industrial wastewater source that requires a construction permit under paragraph (b) of Section 12, from the applicant for the construction permit. However, no fee shall be required for a treatment works or wastewater source directly covered and authorized under an NPDES permit issued by the Agency, nor for any treatment works, industrial pretreatment works, or industrial wastewater source (i) that 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 (ii) 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.

(b) Each applicant or person required to pay a fee under this Section shall submit the fee to the Agency along with the permit application. The Agency shall deny any construction permit application for which a fee is required under this Section that does not contain the appropriate fee.

(c) The amount of the fee is as follows:

(1) A $100 fee shall be required for any sewer constructed with a design population of 1.

(2) A $400 fee shall be required for any sewer constructed with a design population of 2 to 20.

(3) A $800 fee shall be required for any sewer constructed with a design population greater than 20 but less than 101.

(4) A $1200 fee shall be required for any sewer constructed with a design population greater than 100 but less than 500.

(5) A $2400 fee shall be required for any sewer constructed with a design population of 500 or more.

(6) A $1,000 fee shall be required 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.

(7) A $3,000 fee shall be required 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.

(8) A $6,000 fee shall be required 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.

(9) A $2,500 fee shall be required for construction relating to land application of industrial sludge or spray irrigation of industrial wastewater.

All fees collected by the Agency under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund in accordance with Section 22.8.

(d) Prior to a final Agency decision on a permit application for which a fee has been paid under this Section, the applicant may propose modification to the application in accordance with this Act and regulations adopted hereunder 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 subsection (c). If the modifications cause such an increase or change the fee category and the increase results in additional fees being due under subsection (c), the applicant shall submit the additional fee to the Agency with the proposed modifications.

(e) No fee shall be due under this Section from:

(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 which allows such unit to issue construction

permits under this Title, or regulations adopted hereunder, 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:

(i) 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

(ii) 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.

(f) The Agency may establish procedures relating to the collection of fees under this Section. The Agency shall not refund any fee paid to it under this Section. Notwithstanding the provisions of any rule adopted before July 1, 2003 concerning fees under this Section, the Agency shall assess and collect the fees imposed under subdivision (a)(2) of this Section and the increases in the fees imposed under subdivision (a)(1) of this Section beginning on July 1, 2003, for all completed applications received on or after that date.

(g) Notwithstanding any other provision of this Act, the Agency shall, not later than 45 days following the receipt of both an application for a construction permit and the fee required by this Section, 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. 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.

(h) For purposes of this Section:

“Toxic pollutants” means those pollutants defined in Section 502(13) of the federal Clean Water Act and regulations adopted pursuant to that Act.

“Industrial” refers to those industrial users referenced in Section 502(13) of the federal Clean Water Act and regulations adopted pursuant to that Act.

“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.

§ 5/12.3. Septic System Sludge.

Septic system sludge. Beginning January 1, 1993, any wastewater treatment facility or other appropriate waste disposal facility owned or operated by a unit of local government located in a county with a population of less than 3,000,000 may accept, for appropriate treatment or disposal, any septic system sludge generated by any private residence within that unit of local government or within any other unit of local government that is located within the same county

and not served by its own wastewater treatment facility. The unit of local government may establish and charge reasonable fees for the acceptance, handling, treatment, and disposal of the sludge to defray any additional capital costs incurred specifically to comply with this Section.

This Section does not limit any power exercised by a unit of local government under any other law.

§ 5/12.4. Vegetable By-Product; Land Application; Report.

Vegetable by-product; land application; report. In addition to any other requirements of this Act, a generator of vegetable by-products utilizing land application shall prepare an annual report identifying the quantity of vegetable by-products transported for land application during the reporting period, the hauler or haulers utilized for the transportation, and the sites to which the vegetable by-products were transported. The report must be retained on the premises of the generator for a minimum of 5 calendar years after the end of the applicable reporting period and must, during that time, be made available to the Agency for inspection and copying during normal business hours.

§ 5/12.5. NPDES Discharge Fees; Sludge Permit Fees.

(a) Beginning July 1, 2003, the Agency shall assess and collect annual fees (i) in the amounts set forth in subsection (e) for all discharges that require an NPDES permit under subsection (f) of Section 12, from each person holding an NPDES permit authorizing those discharges (including a person who continues to discharge under an expired permit pending renewal), and (ii) in the amounts set forth in subsection (f) of this Section for all activities that require a permit under subsection (b) of Section 12, from each person holding a domestic sewage sludge generator or user permit.

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

(b) Within 30 days after the effective date of this Section, and each year thereafter, except when a fee is not due because of the operation of subsection (c), the Agency shall send a fee notice by mail to each existing permittee subject to a fee under this Section 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.

Except as provided in subsection (c) with respect to initial fees under new permits and certain modifications of existing permits, fees payable under this Section 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.

(c) The initial annual fee for discharges under a new NPDES permit or for activity under a new sludge generator or sludge user permit must be remitted to the Agency prior to the issuance of the permit. The Agency shall provide notice of the amount of the fee to the applicant during its review of the application. 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.

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.

Beginning January 1, 2010, in the case of construction site storm water 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 subsection (e)(10) of this Section.

If a requested modification to an existing NPDES permit causes a change in the applicable fee categories under subsection (e) 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.

(d) Failure to submit the fee required under this Section by the due date constitutes a violation of this Section. Late payments shall incur an interest penalty, calculated at the rate in effect from time to time for tax delinquencies under subsection (a) of Section 1003 of the Illinois Income Tax Act,[1] from the date the fee is due until the date the fee payment is received by the Agency.

(e) 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:

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

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

(iii) $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;

(iv) $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;

(v) $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

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

(2) For NPDES permits for treatment works or sewer collection systems that include combined sewer overflow outfalls, the fee is:

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

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

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

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

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

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

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

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

(ii) $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

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

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

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

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

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

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

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

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

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

(10) 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.

(11) For an NPDES permit for a Concentrated Animal Feeding Operation (CAFO), the fee is:

(A) $750 for a Large CAFO, as defined in 40 C.F.R. 122.23(b)(4);

(B) $350 for a Medium CAFO, as defined in 40 C.F.R. 122.23(b)(6); and

(C) $150 for a Small CAFO, as defined in 40 C.F.R. 122.23(b)(9).

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

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

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

(i) The Agency may adopt rules to administer the fee program established in this Section. The Agency may include provisions pertaining to invoices, notice of late payment, refunds, and disputes concerning the amount or timeliness of payment. The Agency may set forth procedures and criteria for the acceptance of payments. The absence of such rules does not affect the duty of the Agency to immediately begin the assessment and collection of fees under this Section.

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

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

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

(l) The Agency may refund the difference between (a) the amount paid by any person under subsection (e)(1)(i) or (e)(1)(ii) of this Section for the 12 months beginning July 1, 2004 and (b)

the amount due under subsection (e) (1)(i) or (e)(1)(ii) as established by this amendatory Act of the 93rd General Assembly.

§ 5/12.6. Certification Fees.

(a) Beginning July 1, 2003, the Agency shall collect a fee in the amount set forth in subsection (b) from each applicant for a state water quality certification required by Section 401 of the federal Clean Water Act prior to a federal authorization pursuant to Section 404 of that Act; except that the fee does not apply to the State or any department or agency of the State, nor to any school district.

(b) The amount of the fee for a State water quality certification is $350 or 1% of the gross value of the proposed project, whichever is greater, but not to exceed $10,000.

(c) Each applicant seeking a federal authorization of an action requiring a Section 401 state water quality certification by the Agency shall submit the required fee to the Agency prior to the issuance of the certification. The Agency shall provide notice of the amount of the fee to the applicant during its review of the application. The Agency shall not issue a Section 401 state water quality certification until the appropriate fee has been received from the applicant.

(d) The Agency may establish procedures relating to the collection of fees under this Section. Notwithstanding the adoption of any rules establishing such procedures, the Agency may begin collecting fees under this Section on July 1, 2003 for all complete applications received on or after that date.

All fees collected by the Agency under this Section shall be deposited into the Illinois Clean Water Fund. Fees paid under this Section are not refundable.

§ 5/13. Regulations.

(a) The Board, pursuant to procedures prescribed in Title VII of this Act, may adopt regulations to promote the purposes and provisions of this Title. Without limiting the generality of this authority, such regulations may among other things prescribe:

> (1) Water quality standards specifying among other things, the maximum short-term and long-term concentrations of various contaminants in the waters, the minimum permissible concentrations of dissolved oxygen and other desirable matter in the waters, and the temperature of such waters;
>
> (2) Effluent standards specifying the maximum amounts or concentrations, and the physical, chemical, thermal, biological and radioactive nature of contaminants that may be discharged into the waters of the State, as defined herein, including, but not limited to, waters to any sewage works, or into any well, or from any source within the State;
>
> (3) Standards for the issuance of permits for construction, installation, or operation of any equipment, facility, vessel, or aircraft capable of causing or contributing to water pollution or designed to prevent water pollution or for the construction or installation of

any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this State;

(4) The circumstances under which the operators of sewage works are required to obtain and maintain certification by the Agency under Section 13. 5 and the types of sewage works to which those requirements apply, which may, without limitation, include wastewater treatment works, pretreatment works, and sewers and collection systems;

(5) Standards for the filling or sealing of abandoned water wells and holes, and holes for disposal of drainage in order to protect ground water against contamination;

(6) Standards and conditions regarding the sale, offer, or use of any pesticide, detergent, or any other article determined by the Board to constitute a water pollution hazard, provided that any such regulations relating to pesticides shall be adopted only in accordance with the "Illinois Pesticide Act", approved August 14, 1979 as amended;

(7) Alert and abatement standards relative to water-pollution episodes or emergencies which constitute an acute danger to health or to the environment;

(8) Requirements and procedures for the inspection of any equipment, facility, or vessel that may cause or contribute to water pollution;

(9) Requirements and standards for equipment and procedures for monitoring contaminant discharges at their sources, the collection of samples and the collection, reporting and retention of data resulting from such monitoring.

(b) Notwithstanding other provisions of this Act and for purposes of implementing an NPDES program, the Board shall adopt:

(1) Requirements, standards, and procedures which, together with other regulations adopted pursuant to this Section 13, are necessary or appropriate to enable the State of Illinois to implement and participate in the National Pollutant Discharge Elimination System (NPDES) pursuant to and under the Federal Water Pollution Control Act, as now or hereafter amended.3 All regulations adopted by the Board governing the NPDES program shall be consistent with the applicable provisions of such federal Act and regulations pursuant thereto, and otherwise shall be consistent with all other provisions of this Act, and shall exclude from the requirement to obtain any operating permit otherwise required under this Title a facility for which an NPDES permit has been issued under Section 39(b); provided, however, that for purposes of this paragraph, a UIC permit, as required under Section 12(g) and 39(d) of this Act, is not an operating permit.

(2) Regulations for the exemption of any category or categories of persons or contaminant sources from the requirement to obtain any NPDES permit prescribed or from any standards or conditions governing such permit when the environment will be adequately protected without the requirement of such permit, and such exemption is either consistent with the Federal Water Pollution Control Act, as now or hereafter

amended, or regulations pursuant thereto, or is necessary to avoid an arbitrary or unreasonable hardship to such category or categories of persons or sources.

(c) In accordance with Section 7.2, and notwithstanding any other provisions of this Act, for purposes of implementing a State UIC program, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 1421 of the Safe Drinking Water Act (P.L. 93-523), as amended. The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to regulations adopted under this subsection.

(d) The Board may adopt regulations relating to a State UIC program that are not inconsistent with and are at least as stringent as the Safe Drinking Water Act (P.L. 93-523), as amended, or regulations adopted thereunder. Regulations adopted pursuant to this subsection shall be adopted in accordance with the provisions and requirements of Title VII of this Act and the procedures for rulemaking in Section 5-35 of the Illinois Administrative Procedure Act.

§ 5/13.2. Annual Testing of Private Well Water.

At the request of the owner or user of a private well, the Agency shall provide for annual testing of water from private wells located within ½ mile of any active or inactive sanitary landfill or hazardous waste disposal facility at no charge to the owner of the well.

Before obtaining a sample for testing, the Agency shall, not less than 5 business days prior to obtaining the sample, notify the owner or operator of the sanitary landfill or hazardous waste disposal facility of the opportunity to obtain a split sample and specify the sampling procedure, testing procedure and analytical parameters to be evaluated.

Sample collection shall be conducted in cooperation with the Illinois Department of Public Health and the recognized local health department, where one exists, in whose jurisdiction the well is located. The Illinois Department of Public Health and the local health department shall be provided with a written report of results upon completion of sample testing.

§ 5/13.3. Regulations; Implementation of Federal Water Pollution Control Act.

In accordance with Section 7.2, the Board shall adopt regulations which are identical in substance to federal regulations or amendments thereto promulgated by the Administrator of the United States Environmental Protection Agency to implement Sections 307(b), (c), (d), 402(b)(8) and 402(b)(9) of the Federal Water Pollution Control Act, as amended. The Board may consolidate into a single rulemaking under this Section all such federal regulations adopted within a period of time not to exceed 6 months. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this Section. Sections 5-35 and 5-75 of the Illinois Administrative Procedure Act relating to procedures for rulemaking shall not apply to

regulations adopted under this Section. However, the Board shall provide for notice and public comment before adopted rules are filed with the Secretary of State.

§ 5/13.4. Pretreatment Market System.

(a) The General Assembly finds:

(1) That achieving compliance with federal, State, and local pretreatment regulatory requirements calls for innovative and cost-effective implementation strategies.

(2) That economic incentives and market-based approaches can be used to achieve pretreatment compliance in an innovative and cost-effective manner.

(3) That development and operation of a pretreatment market system should significantly lessen the economic impacts associated with implementation of the pretreatment requirements and still achieve the desired water quality, sludge quality, and protection of the sewers and treatment system.

(b) The Agency shall design a pretreatment market system that will provide more flexibility for municipalities and their tributary dischargers to develop cost-effective solutions and will result in at least the total pollutant reduction as achieved by the current application of federal categorical standards, State pretreatment limits, and locally derived limits, as applicable. Such a system should also assist publicly-owned treatment works in meeting applicable NPDES permit limits and in preventing the discharge of pollutants in quantities that would interfere with the operation of the municipal sewer system. In developing this system, the Agency shall consult with interested publicly-owned treatment works and tributary dischargers to ensure that relevant economic, environmental, and administrative factors are taken into account. As necessary, the Agency shall also consult with the United States Environmental Protection Agency regarding the suitability of such a system.

(c) The Agency may adopt proposed rules for a market-based pretreatment pollutant reduction, banking, and trading system that will enable publicly-owned treatment works and their tributary dischargers to implement cost-effective compliance options. Any proposal shall be adopted in accordance with the provisions of the Illinois Administrative Procedure Act.

(d) Notwithstanding the other provisions of this Act, a publicly-owned treatment works may implement a pretreatment market system that is consistent with subsection (b) of this Section, provided that the publicly-owned treatment works:

(1) operates an approved local pretreatment program pursuant to State and federal NPDES regulations;

(2) is not currently subject to enforcement action for violation of NPDES requirements;

(3) receives wastewater from tributary dischargers that are subject to federal categorical pretreatment standards or approved local pretreatment limits; and

(4) has modified, as appropriate, the local pretreatment program to incorporate such market system.

(e) Prior to implementation of any pretreatment market system, a publicly-owned treatment works shall notify the Agency in writing of its intention and request the Agency to make a consistency determination regarding the local system's conformance with the rules promulgated pursuant to subsection (c) of this Section. Within 120 days, the Agency shall provide the determination in writing to the publicly-owned treatment works.

(f) Notwithstanding the other provisions of this Act, any discharger that is tributary to a publicly-owned treatment works with a pretreatment market system shall be eligible to exchange trading units with dischargers tributary to the same publicly-owned treatment works or with the publicly-owned treatment works to which it is tributary.

(g) Nothing in this Section shall be deemed to authorize a publicly-owned treatment works:

(1) to mandate the exchange of trading units by a tributary discharger in a pretreatment market system implemented pursuant to this Section; or

(2) to mandate reductions in pollutants from any tributary discharger beyond that otherwise required by federal categorical and State pretreatment standards or approved local pretreatment limits.

§ 5/13.5. Sewage Works; Operator Certification.

(a) For the purposes of this Section, the term “sewage works” includes, without limitation, wastewater treatment works, pretreatment works, and sewers and collection systems.

(b) The Agency may establish and enforce standards for the definition and certification of the technical competency of personnel who operate sewage works, and for ascertaining that sewage works are under the supervision of trained individuals whose qualifications have been approved by the Agency.

(c) The Agency may issue certificates of competency to persons meeting the standards of technical competency established by the Agency under this Section, and may promulgate and enforce regulations pertaining to the issuance and use of those certificates.

(d) The Agency shall administer the certification program established under this Section. The Agency may enter into formal working agreements with other departments or agencies of State or local government under which all or portions of its authority under this Section may be delegated to the cooperating department or agency.

(e) This Section and the changes made to subdivision (a)(4) of Section 13 by this amendatory Act of the 93rd General Assembly do not invalidate the operator certification rules previously adopted by the Agency and codified as Part 380 of Title 35, Subtitle C, Chapter II of the Illinois Administrative Code. Those rules, as amended from time to time, shall continue in effect until they are superseded or repealed.

§ 5/13.6. Release of Radionuclides at Nuclear Power Plants.

(a) The purpose of this Section is to require the detection and reporting of unpermitted releases of any radionuclides into groundwater, surface water, or soil at nuclear power plants, to the extent that federal law or regulation does not preempt such requirements.

(b) No owner or operator of a nuclear power plant shall violate any rule adopted under this Section.

(c) Within 24 hours after an unpermitted release of a radionuclide from a nuclear power plant, the owner or operator of the nuclear power plant where the release occurred shall report the release to the Agency and the Illinois Emergency Management Agency. For purposes of this Section, “unpermitted release of a radionuclide” means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a radionuclide into groundwater, surface water, or soil that is not permitted under State or federal law or regulation.

(d) The Agency and the Illinois Emergency Management Agency shall inspect each nuclear power plant for compliance with the requirements of this Section and rules adopted pursuant to this Section no less than once each calendar quarter. Nothing in this Section shall limit the Agency's authority to make inspections under Section 4 or any other provision of this Act.

(e) No later than one year after the effective date of this amendatory Act of the 94th General Assembly, the Agency, in consultation with the Illinois Emergency Management Agency, shall propose rules to the Board prescribing standards for detecting and reporting unpermitted releases of radionuclides. No later than one year after receipt of the Agency's proposal, the Board shall adopt rules prescribing standards for detecting and reporting unpermitted releases of radionuclides.

§ 5/13.7. Carbon Dioxide Sequestration Sites.

(a) For purposes of this Section, the term “carbon dioxide sequestration site” means a site or facility for which the Agency has issued a permit for the underground injection of carbon dioxide.

(b) The Agency shall inspect carbon dioxide sequestration sites for compliance with this Act, rules adopted under this Act, and permits issued by the Agency.

(c) If the Agency issues a seal order under Section 34 of this Act in relation to a carbon dioxide sequestration site, or if a civil action for an injunction to halt activity at a carbon dioxide sequestration site is initiated under Section 43 of this Act at the request of the Agency, then the Agency shall post notice of such action on its website.

(d) Persons seeking a permit or permit modification for the underground injection of carbon dioxide shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with review and issuance of the permit, including, but not limited to, costs associated with public hearings and the review of permit applications. Once a permit is issued, the permittee shall be liable to the Agency for all reasonable and documented costs incurred by the Agency that are associated with inspections and other oversight of the carbon

dioxide sequestration site. Persons liable for costs under this subsection (d) must pay the costs upon invoicing, or other request or demand for payment, by the Agency. Costs for which a person is liable under this subsection (d) are in addition to any other fees, penalties, or other relief provided under this Act or any other law.

Moneys collected under this subsection (d) shall be deposited into the Environmental Protection Permit and Inspection Fund established under Section 22.8 of this Act. The Agency may adopt rules relating to the collection of costs due under this subsection (d).

(e) The Agency shall not issue a permit or permit modification for the underground injection of carbon dioxide unless all costs for which the permittee is liable under subsection (d) of this Section have been paid.

(f) No person shall fail or refuse to pay costs for which the person is liable under subsection (d) of this Section.

§ 5/13.8. Algicide Permits.

No person shall be required to obtain a permit from the Agency to apply a commercially available algicide, such as copper sulfate or a copper sulfate solution, in accordance with the instructions of its manufacturer, to a body of water that: (i) is located wholly on private property, (ii) is not a water of the United States for purposes of the Federal Water Pollution Control Act, and (iii) is not used as a community water supply source.