

ILLINOIS POLLUTION CONTROL BOARD
May 18, 1984

IN THE MATTER OF:)
)
PERMIT AND INSPECTION FEES) R84-7
FOR HAZARDOUS WASTE DISPOSAL)
FACILITIES (FINAL RULE))

PROPOSED RULE. SECOND NOTICE

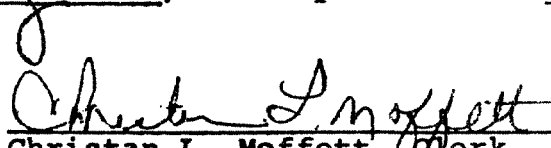
ORDER OF THE BOARD (by J. Anderson):

On February 29, 1984, in Docket R84-1, the Board adopted 35 Ill. Adm. Code 718 as an emergency rule in order to comply with the March 1 deadline, contained in Section 5(f) of the Environmental Protection Act (Act), for adoption of a schedule of permit and inspection fees for hazardous waste disposal facilities requiring a RCRA permit. At the same time the Board opened this docket to propose the same rules for adoption as permanent rules under the Administrative Procedure Act. On March 21, 1984 the Board adopted a Proposed Opinion in R84-1 and R84-7. The proposed and emergency rules appeared at 8 Ill. Reg. 3513 and 3786, March 23, 1984. The Board held two hearings, on March 29 at Chicago and on April 9 at Springfield. Following the hearings the Board received several written comments. The Board has modified the proposal in response to testimony and written comments. The text of the proposal as modified is attached to this Order. The Board intends to file this proposal as a substitute for the emergency rules before the fees become payable on July 1, 1984. The Board adopts the Order for Second Notice.

IT IS SO ORDERED.

Board Members J. D. Dumelle and J. Theodore Meyer concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 18th day of May, 1984 by a vote of 6-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

PART 718
FEES

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718.Appendix A	Inspection Fee Computation

AUTHORITY: Implementing Sections 5(f) and 21(f) and authorized by Section 27 of the Environmental Protection Act, (Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 1005(f), 1021(f) and 1027).

SOURCE: Emergency rule adopted in R84-1 at 8 Ill. Reg. 3786, effective March 13, 1984, for a maximum of 150 days;

adopted in R84-7 at 8 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 718.101 Purpose, Scope and Applicability

This Part sets fee schedules intended to recover the Illinois Environmental Protection Agency's (Agency's) costs to the State for the permit and inspection activities pursuant to Section 5(f) of the Environmental Protection Act (Act). Such fees are not intended to affect costs for any portion of such activities which may be supported by Federal funding. Fees are imposed for "hazardous waste disposal facilities requiring a RCRA permit", as defined in Section 718.102. Subpart B governs permit fees, while Subpart C governs inspection fees.

Section 718.102 Definitions

Unless otherwise stated or unless the context clearly indicates a different meaning, the definitions of terms used in this Part are the same as those found in the Act and in 35 Ill. Adm. Code 702.110. As used in this Part, the following terms have the meanings indicated.

Act: The Environmental Protection Act, Ill. Rev. Stat. 1983, ch. 111 1/2, par. 1001 et seq.

Agency: The Illinois Environmental Protection Agency

Board: The Illinois Pollution Control Board

Disposal: As defined in Section 3 of the Act.

Hazardous waste: As defined in 35 Ill. Adm. Code 721.

Hazardous waste disposal facility requiring a RCRA permit:

A facility as defined in 35 Ill. Adm. Code 720,

Which requires a RCRA permit pursuant to Section 21(f) of the Act,

Which includes one of the following disposal units:

A landfill receiving hazardous waste; or

A waste pile or surface impoundment, receiving hazardous waste, in which waste residues are expected to remain after closure; or

A land treatment unit receiving hazardous waste; or,

A well injecting hazardous waste.

A facility in closure or post-closure care pursuant to a RCRA permit is specifically excluded from this definition.

RCRA Permit: A permit for a hazardous waste management facility required by Section 21(f) of the Act and 35 Ill. Adm. Code 703.

Section 718.103 Severability

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

Section 718.104 Appeal

A billing, determination or modification made by the Agency, or failure of the Agency to make a timely determination, pursuant to this Part may be appealed to the Board in accordance with the procedures for permit denial appeals set forth in Section 40 of the Act and 35 Ill. Adm. Code 105. Billing or other notification of determination or modification determines when the time for appeal starts. Such appeal does not stay any fee or late charge. The Board may abate a portion of a fee as a result of an appeal.

Section 718.105 Billing and Payment Dates

- a) Permit and inspection fees will be billed by the Agency as provided in the Subparts establishing the fees. Generally fees are billed by the Agency annually, or whenever adjusted, and are payable quarterly in advance.
- b) Fees shall be payable on the dates specified in the bill, but in no event less than 30 days after the bill is sent.
- c) Fees established pursuant to this Part shall be billable for the fiscal year starting July 1, 1984, and for each fiscal year thereafter.

Section 718.106 Late Payment Charges

A charge of 1.5% shall be levied on payments received after the date payable for each month, or portion of a month, the fee is received after it is payable. Late charges shall become payable after they have been billed by the Agency.

Section 718.107 Credits

- a) Except as otherwise determined by the legislature, fees received by the Agency are not refundable.
- b) Fees received in excess of the amount determined by the Agency to be properly due may be deducted from subsequent quarterly payments.

Section 718.108 Enforcement

- a) Fees established pursuant to this Part may be recovered in a civil action.
- b) The general obligation to pay permit and inspection fees shall be included as a condition of any RCRA, UIC or other waste disposal permit for a facility subject to this Part. However, the billing of a specific dollar amount of a fee shall not be construed as an amendment to or condition of such permits. The failure to pay a fee when due, after the opportunity to appeal has passed, shall be grounds for revocation of permits before the Board, and shall be a sufficient reason for the Agency to deny any permit application which may be before it for the facility.

SUBPART B: PERMIT FEES FOR RCRA DISPOSAL FACILITIES

Section 718.200 Purpose, Scope and Applicability

This Subpart sets fees which are intended to recover the costs of the Agency's activities in reviewing and processing permits for hazardous waste disposal facilities requiring a RCRA permit. Quarterly fees payable in advance are set for some types of permits, based on the Agency's estimated annual costs for reviewing each type of permit. It is the purpose of these rules that the Agency recover the costs of all waste permit activities at the facility, regardless of whether directly related to hazardous waste activities. Only State costs in excess of Federal funding are to be recovered.

Section 718.201 Hazardous Waste Disposal Facilities
Requiring a RCRA Permit

- a) The permit fee schedule for hazardous waste disposal facilities requiring a RCRA permit is as follows:
 - 1) For a facility disposing of hazardous waste generated at another facility by means other than well injection: \$825 per quarter;
 - 2) For a facility disposing of hazardous waste only by well injection: \$350 per quarter;
 - 3) For a facility disposing, by means other than well injection, only of hazardous waste generated on the same facility: \$175 per quarter.

- b) The above fees are based on the assumption that the Agency's permit activities for hazardous waste disposal facilities requiring a RCRA permit are 75% federal grant funded. If actual federal grant funding in any fiscal year is less than 70% or more than 80%, the above fees shall be corrected by the following formula:

$$\text{Adjusted Fee} = (1-A)F/0.25$$

where:

- 1) F = unadjusted fee
- 2) A = fraction of Agency's permit activities which are grant funded

Section 718.221 Billing of Permit Fees

The Agency shall bill each facility:

- a) Annually at the beginning of the fiscal year, or as soon thereafter as all necessary information is available.
- b) After the Agency determines that there has been a change in permit status at a facility.

Section 718.222 Determination and Modification of Permit Status

- a) The permit status of a given facility shall be determined as of the first day of each calendar quarter.

- b) The Agency must give notice that it intends to review the permit status of a facility at least 30 days prior to the first day of the quarter for which the status is to be determined; the permittee must request review of its permit status at least 30 days prior to the first day of the quarter.
- c) If notice is not given in accordance with the time limits of paragraph (b), the permit status shall not be changed for the next quarter. Any changes shall affect the permit status for the following quarter.

SUBPART C: INSPECTION FEES FOR RCRA DISPOSAL FACILITIES

Section 718.300 Purpose, Scope and Applicability

- a) This Subpart sets fee schedules intended to recover the costs of the Agency's inspection activities at hazardous waste disposal facilities requiring a RCRA permit, as authorized by Section 5(f) of the Act. The fee is intended to recover costs of inspections of waste handling activities at the subject facilities whether the inspection relates directly to hazardous waste activities or not.
- b) Quarterly inspection fees are charged based on the level of surveillance of the facility determined under the provisions of this Subpart. Board rules specify relative fees to be charged facilities in each surveillance level based on the relative intensity of inspections appropriate for each level. Each year the Agency is to compute the actual fees based on the relative fees and funds appropriated by the legislature from the permit and inspection fee fund, according to the specified methodology.

Section 718.301 Definitions

Unless otherwise stated or unless the context clearly indicates a different meaning, the definitions of terms used in this Subpart are the same as those found in the Environmental Protection Act (Act), (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1001 et seq.) and in 35 Ill. Adm. Code 702.110. Terms used in this Subpart have the following meanings:

Active operation: Landfilling or land spreading.

Incompatible waste: As defined in 35 Ill. Adm. Code 720 and 721.

Passive operation: Any waste handling operation which is not an "active operation", including operation of an injection well or surface impoundment.

Pathway to migration: A distinct route by which waste constituents could be released from the site and enter the environment. There are three pathways to migration: air, surface water and groundwater.

Types of operations: Any distinct waste handling activity, including, but not limited to: transportation, storage, compaction, containerization, landfilling, land spreading, neutralization or incineration.

Waste management area: The smallest rectangular area which encloses all activities for which a RCRA permit is required.

Section 718.311 Level of Surveillance

- a) The level of surveillance determines the inspection fee for a given site and affects the computation of fees for all sites (Appendix A). The criteria for determining the level of surveillance are determined from Section 718.312.
- b) The levels of surveillance are as follows:

Points from Section 718.312	Level of Surveillance
80 - 110	5
50 - 79	3
0 - 49	1

Section 718.312 Criteria for Determination of Level of Surveillance

The following criteria establish points to be used in Section 718.311 to determine the level of surveillance:

- a) Size of waste management area:
If the waste management area is 100 acres or greater, add 10 points.
- b) Diversity of operations:
If there are more than two different types of operations conducted at the facility, add 10 points.
- c) Flood plain:

If the facility is in the 100-year flood plain, whether protected or not, add 10 points.

d) Type of operation:

If the facility includes a dynamic operation, add 10 points.

e) Waste volume:

If the facility disposes of more than 10,000,000 gallons of hazardous waste per year, add 10 points.

f) Compatibility/stability of wastestreams:

If the facility handles two incompatible wastestreams or an explosive wastestream, add 10 points.

g) Physical state of waste:

If the facility handles liquid or gaseous hazardous waste, add 10 points.

h) Proximity to populations:

If the facility is within 1/4 mile of a residence or a business (other than its own), add 10 points.

i) Pathways to migration:

If the facility has two or more pathways to migration, add 10 points.

j) Distance to private wells:

If the facility is within 1/2 mile of a private drinking water supply, add 10 points.

k) Distance to public water supplies:

If the facility is within 1/2 mile of a public water supply, add 10 points.

Section 718.313 Closing Date for Determination of Level of Surveillance

The Agency shall determine the level of surveillance for a facility based on typical operating conditions existing on the first day of the calendar quarter. "Typical operating conditions" does not include conditions which are expected to last less than 45 days.

Section 718.314 Modification of Level of Surveillance

- a) The Agency shall review the level of surveillance on request of the permittee, or on its own initiative.
- b)
 - 1) The permittee must request review of the level of surveillance at least 30 days before the first day of the next quarter.
 - 2) The Agency must give notice that it will review the level of surveillance at its own instance at least 30 days before the first day of the next quarter.
- c) If notice is not given in accordance with the time limits of paragraph (b), the surveillance level shall not be changed for the next quarter. Any changes shall affect the permit status for the following quarter.
- d) The Agency shall promptly notify the permittee of the results of its review of the level of surveillance.

Section 718.321 Relative Inspection Fees

- a) Inspection fees shall be determined in accordance with the methodology of Appendix A by the Agency for each budget period based on:
 - 1) Amounts appropriated from the permit and inspection fee fund for inspection activities for hazardous waste disposal facilities requiring a RCRA permit, or as otherwise directed by the legislature pursuant to Section 22.21 of the Act.
 - 2) The number of such facilities in each surveillance level as of the beginning of the fiscal year;
 - 3) The table in paragraph (b).
- b) The relative fees for each permit type and surveillance level are as follows:

Surveillance Level	Relative Fee
5	15
3	2.5
1	1

- c) Fees shall be determined as of July 1 of each year, or as soon thereafter as the Agency's appropriation becomes law, and shall not be adjusted again during that fiscal year, even if the Agency's budget is amended or the number or distribution of facilities changes.
- d) Fees shall be payable on a quarterly basis in advance. Fees shall be billed annually, and after any alteration in permit type or level of surveillance for that facility. Bills shall include a copy of the computation of the fee schedule for the fiscal year, which computation may be appealed along with the bill for the facility.

Section 718.330 Billing of Inspection Fees

The Agency shall bill each facility:

- a) Annually at the beginning of the fiscal year, or as soon thereafter as all necessary information is available.
- b) After the Agency modifies the surveillance level pursuant to Section 718.314.

Section 718.341 New Facilities

A facility which, after the first day of the quarter, becomes subject to inspection for which a fee may be charged, but for which no level of surveillance was determined according to Section 718.311, shall not be charged an inspection fee for that quarter.

Section 718.342 Partial and Complete Shutdown

- a) A facility which anticipates partial or complete shutdown may request modification of the level of surveillance pursuant to Section 718.314.
- b) No credit for inspection fees previously payable shall be allowed for partial or complete shutdown.

Section 718. Appendix A Inspection Fee Computation

- a) The table of relative fees in Section 718.321 is referred to as Table I in this Appendix:

Table I: Relative Fees

Surveillance Level	Relative Fee
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5	15
3	2.5
1	1

- b) Determine the number of facilities in each surveillance level as of the first day of the fiscal year, as in accordance with the following example:

Table II: Number of Facilities

Surveillance Level	Total
5	8
3	6
1	2
Total	<u>16</u>

- c) Determine the relative fees expected from each category of facilities by multiplying each "Relative Fee" element of Table I by the corresponding "Number of Facilities" element of Table II. Sum the elements of the resulting Table III to determine the total fee units expected from the program:

Table III: Fee Units Expected from Program

Surveillance Level	Total
5	120
3	15
1	2
Total Fee Units	<u>137</u>

- d) Determine the estimated State costs based on the appropriation of State funds:

Appropriation, State Cost \$500,000

- e) Determine the relative fee multiplier by dividing the State cost by the total fee units from Table III:

$$\begin{aligned}
 \$500,000/137 &= \$3650 \text{ per fee unit} \\
 &= \text{Relative Fee Multiplier}
 \end{aligned}$$

- f) Determine the annual fees by multiplying each "Relative Fee" element of Table I by the relative fee multiplier, rounding to the nearest \$100:

Table IV: Total Annual Fee

Surveillance Level	Annual Fee	Quarterly Fee
5	\$54,800	\$13,700
3	\$ 9,100	\$ 2,275
1	\$ 3,600	\$ 900

- g) To confirm arithmetic, estimate the total annual revenue by multiplying each "Number of Facilities" element of Table II by the corresponding "Annual Fee" element of Table IV and summing the resulting Table V. The total revenue should be approximately equal to the State cost:

Table V: Total Expected Annual Revenue

Surveillance Level	Total
5	\$438,400
3	\$ 54,600
1	\$ 7,200
Total Expected Annual Revenue	<u>\$500,200</u>
State Cost	\$500,000