

ILLINOIS POLLUTION CONTROL BOARD
February 29, 1984

In the matter of:)
)
PERMIT AND INSPECTION FEES FOR) R84-1
HAZARDOUS WASTE DISPOSAL)
FACILITIES [Section 5(f)])

FINAL ORDER. ADOPTED EMERGENCY RULE
ORDER OF THE BOARD (by D. Anderson):

In order to comply with Section 5(f) of the Environmental Protection Act as amended by P.A. 83-0938, the Board hereby adopts the attached Part 718 as an emergency rule. The text will be filed with the Secretary of State and be published in the Illinois Register as an emergency rule.

IT IS SO ORDERED.

Board Member J.D. Dumelle dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 29th day of February, 1984 by a vote of 6-1.

Christan L. Moffett
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

SUBPART A: GENERAL PROVISIONS

Section
718.101 Purpose, Scope and Applicability
Emergency
718.102 Definitions
Emergency
718.103 Severability
Emergency

SUBPART B: PERMIT FEES

Section
718.200 Purpose, Scope and Applicability
Emergency
718.201 Hazardous Waste Disposal Facilities Requiring a
RCRA Permit
Emergency
718.221 Billing of Permit Fees
Emergency

SUBPART C: INSPECTION FEES FOR RCRA DISPOSAL FACILITIES

Section
718.300 Purpose, Scope and Applicability
Emergency
718.301 Definitions
Emergency
718.310 Maximum Billable Inspections
Emergency
718.311 Level of Surveillance
Emergency
718.312 Criteria for Determination of Level of Surveillance
Emergency
718.313 Closing Date for Determination of Level of
Surveillance
Emergency
718.314 Modification of Level of Surveillance
Emergency
718.315 Appeal
Emergency
718.320 Inspection Overhead Fee
Emergency

Section
718.321 Inspection Fee
Emergency
718.322 Start-up Fee
Emergency
718.330 Billing and Payment Dates
Emergency
718.331 Late Payment Charges
Emergency
718.340 Credits
Emergency
718.341 New Facilities
Emergency
718.342 Partial and Complete Shutdown
Emergency

AUTHORITY: Implementing Sections 5(f) and 21(f) and authorized by Section 27 of the Environmental Protection Act, as amended by H.B. 1108, (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1005 and 1021, as amended by P.A. 83-0938, and par. 1027).

SOURCE: Emergency rule adopted at 8 Ill. Reg. _____, effective , for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 718.101 Purpose, Scope and Applicability
Emergency

This Part sets fee schedules intended to recover the Illinois Environmental Protection Agency's (Agency's) costs of permit and inspection activities pursuant to Section 5(f) of the Environmental Protection Act (Act). Presently fees are imposed only for hazardous waste disposal facilities requiring a RCRA permit pursuant to Section 21(f) of the Act. Subpart B governs permit fees, while Subpart C governs inspection fees.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.102 Definitions
Emergency

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) A facility as defined in 35 Ill. Adm. Code 720,
- b) Which requires a RCRA permit pursuant to Section 21(f) of the Act,
- c) Which includes one of the following:
 - 1) A landfill at which hazardous waste disposal takes place; or
 - 2) A waste pile or surface impoundment, receiving hazardous waste, in which waste residues are expected to remain after closure; or

- 3) A land treatment unit receiving hazardous waste; or,
- 4) A well injecting hazardous waste.

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

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.103 Severability
Emergency

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.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

SUBPART B: PERMIT FEES

Section 718.200 Purpose, Scope and Applicability
Emergency

This Subpart sets fees which are intended to recover the costs of the Agency's activities in reviewing permits. 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 related to hazardous waste activities.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.201 Hazardous Waste Disposal Facilities
Emergency Requiring a RCRA Permit

- a) The permit fee for a hazardous waste disposal facility requiring a RCRA permit is payable quarterly in advance, as provided in Section 718.221.
- b) The permit fee schedule is as follows:

- 1) For a facility requiring a RCRA permit and disposing of hazardous wastes generated at another facility by means other than well injection: \$5,000 per quarter;
- 2) For a facility requiring a RCRA permit but disposing of hazardous waste only by well injection: \$2,100 per quarter;
- 3) For a facility requiring a RCRA permit but disposing only of hazardous waste generated on the same facility and by means other than well injection: \$1,200 per quarter.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.221 Billing of Permit Fees
Emergency

- a) A quarterly permit fee shall be payable for each quarter during which the facility requires a permit, as judged on the first day of the calendar quarter.
- b) The Agency shall bill for permit fees promptly after the first day of each calendar quarter; the fees shall be paid within 30 days after the bill is sent.
- c) A late payment charge shall be levied at the rate of 1.5% per month on payments received more than 30 days after they are billed for each month, or portion of a month, the fee is received after it is due. Late charges shall be billed with the next quarterly bill.
- d) Fees received by the Agency are not refundable; but, fees received in excess of the amount properly due will be credited against future charges.
- e) Permit fees for new facilities will be first assessed at the beginning of the first calendar quarter after the permit is issued.
- f) Permit fees will not be refunded if a permit is surrendered, revoked or otherwise terminated after the first day of a calendar quarter.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

SUBPART C: INSPECTION FEES FOR HAZARDOUS
WASTE DISPOSAL FACILITIES

Section 718.300 Purpose, Scope and Applicability
Emergency

- 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. A fee is imposed for inspections at a subject facility whether the inspection relates to hazardous waste activities or not.
- b) Two quarterly fees are imposed:
 - 1) An inspection overhead fee payable in advance to cover costs which either: would be incurred regardless of whether inspections are actually performed; or, cannot be allocated according to the number of actual inspections (Section 718.320).
 - 2) An inspection fee payable after the end of the quarter based on the estimated direct costs of inspections actually performed (Section 718.321).

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.301 Definitions
Emergency

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 a "dynamic 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.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.310 Maximum Billable Inspections
Emergency

- a) The maximum number of billable inspections is the largest number of times the inspection fee of Section 718.321 can be charged in any quarter. The Agency is not required to conduct this number of inspections, nor is it limited to this number.
- b) The maximum number of billable inspections in any calendar quarter for each level of surveillance determined pursuant to Section 718.311 is as follows:

Surveillance Level	Maximum Number of Inspections Per Quarter
5	65
3	13
1	7

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.311 Level of Surveillance
Emergency

- a) The level of surveillance determines the maximum number of billable inspections (Section 718.310), the inspection overhead fee (Section 718.320) and the inspection fee (Section 718.321). 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

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.312 Criteria for Determination of Levels of
Emergency 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 an active 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.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.313 Closing Date for Determination of
Emergency Level of Surveillance

The level of surveillance shall be determined as of the first day of the calendar quarter as of normal operating conditions of the facility, disregarding weekends, holidays and temporary conditions not expected to last more than 45 days.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.314 Modification of Level of Surveillance
Emergency

- a) The level of surveillance may be modified at the instance of the Agency or the permittee.
- b) The permittee must request review of the level of surveillance at least 30 days before the first day of the next quarter.
- c) 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.

- d) If the dates of paragraphs (b) and (c) are not met, the level of surveillance shall not be changed from the previous quarter.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.315 Appeal
Emergency

A determination, or modification, by the Agency under this Part may be appealed to the Board in accordance with the standards and procedures for permit denial appeals set forth in Section 40 of the Act and 35 Ill. Adm. Code 105. Billing pursuant to Section 718.330, 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.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.320 Inspection Overhead Fee
Emergency

- a) The inspection overhead fee is a quarterly charge payable in advance as provided in Section 718.330.
- b) The quarterly inspection overhead fee schedule is as follows:

Surveillance Level	Fee
5	\$5,200
3	\$1,000
1	\$ 500

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.321 Inspection Fee
Emergency

- a) The inspection fee is a quarterly charge, based on actual inspections, payable after the end of the quarter, as provided by Section 718.330.

- b) The inspection fee is to be billed at the following rate:

Surveillance Level	Fee Per Inspection
5	\$280
3	\$230
1	\$190

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.322 Start-up Fee
Emergency

- a) The start-up fee is a one-time charge payable at the beginning of the program on July 1, 1984. It shall be billed and be payable at the same time as the inspection and overhead fee payable for the first quarter of fiscal 1985, pursuant to Sections 718.320 and 718.330.
- b) The start-up fee schedule is as follows:

Surveillance Level	Fee
5	\$39,800
3	\$ 8,000
1	\$ 4,000

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.330 Billing and Payment Dates
Emergency

- a) The inspection overhead fee shall be billed by the Agency promptly after the first day of the calendar quarter for which the fee is due.
- b) The inspection fee shall be billed by the Agency promptly after the last day of the calendar quarter for which it is due.
- c) Fees shall be payable within 30 days after the bill is sent by the Agency.
- d) Fees established pursuant to this Part shall be billable for the quarter starting July 1, 1984, and each calendar quarter thereafter.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.331 Late Payment Charges
Emergency

A charge of 1.5% shall be levied on payments received more than 30 days after they are billed for each month, or portion of a month, the fee is received after it is due. Late charges shall be billed with the next quarterly bill.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.340 Credits
Emergency

- a) Fees received by the Agency are not refundable.
- b) Fees received in excess of the amount properly due will be credited against future charges.
- c) The Agency shall actively seek federal funding for the permit and inspection activities subject to this Part, and any federal funds allocated to this program shall result in a proportional abatement of the fees pursuant to this Part.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.341 New Facilities
Emergency

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, and for which no inspection overhead fee was billed according to Sections 718.320 and 718.330, shall be charged a fee for actual inspections at the rates indicated in Section 718.321, but not the inspection overhead fee for that quarter.

(Source: Emergency rule adopted at 8 Ill. Reg. _____, effective _____, for a maximum of 150 days.)

Section 718.342 Partial and Complete Shutdown
Emergency

- 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 overhead fees previously billed shall be allowed for partial or complete shutdown.
- c) On receiving notification of partial or complete shutdown during a quarter the Agency shall review the level of surveillance, notify the permittee of the level of surveillance indicated by the review, and, if necessary, adjust its current inspection schedule accordingly.

(Source: Emergency rule adopted at 8 Ill. Reg. _____,
effective _____, for a maximum of 150 days.)