

**TITLE 35: ENVIRONMENTAL PROTECTION**  
**SUBTITLE G: WASTE DISPOSAL**  
**CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY**

**PART 856**  
**PROCEDURES FOR COLLECTION OF PERMIT AND INSPECTION FEES**

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**AUTHORITY:** Implementing and authorized by Section 22.8 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1022.8, as amended by P.A. 85-1343, effective January 1, 1989.)

**SOURCE:** Emergency rules adopted at 9 Ill. Reg. 399, effective January 1, 1985, for a maximum of 150 days; emergency expired May 30, 1985; adopted at 9 Ill. Reg. 10754, effective July 1, 1985; amended at 13 Ill. Reg. 13212, effective August 7, 1989.

**SUBPART A: GENERAL PROVISIONS**

**Section 856.101 Definitions**

The following definitions shall apply to this Part:

"Act": The Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1001 et seq.), as amended.

"Agency": *The Environmental Protection Agency Established by the Environmental Protection Act* (Section 3.01 of the Act).

"Calendar Quarter": Any of the quarter portions of each calendar year, commencing respectively on January 1, April 1, July 1 and October 1.

"Hazardous Waste": *A Waste, or combination of Wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board Regulations.* (Section 3.15 of the Act).

"Hazardous Waste Disposal Site": *A Site at which hazardous waste is disposed.* (Section 3.16 of the Act).

"Hazardous Waste Management Facility": A facility at which hazardous waste is treated, either by incineration or otherwise, or stored, either in an impoundment, pile or otherwise.

"On-Site Hazardous Waste Disposal Site": A hazardous waste disposal site located on the site where such waste is produced.

"Off-Site Hazardous Waste Disposal Site": A hazardous waste disposal site located off the site where such waste is produced.

"Operational Unit": A discrete functional entity receiving or injecting hazardous waste, comprising all or part of a hazardous waste disposal site or hazardous waste management facility and subject to the fees imposed by Section 22.8 of the Act.

"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.* (Section 3.43 of the Act).

"Underground Injection": *The subsurface emplacement of fluids by well injection.* (Section 3.50 of the Act).

(Source: Amended at 13 Ill. Reg. 13212, effective August 7, 1989)

### **Section 856.102 Applicability**

The regulations of this Part apply to fees imposed by Section 22.8 of the Act upon owners or operators of hazardous waste disposal sites or hazardous waste management facilities comprised of 1 or more operational units which:

- a) Require a Resource Conservation and Recovery Act (RCRA) permit under Section 21(f) of the Act; or
- b) Require an Underground Injection Control (UIC) permit under Section 12(g) of the Act.

(Source: Amended at 13 Ill. Reg. 13212, effective August 7, 1989)

### **Section 856.103 Relation to Other Fee Systems**

The fees collected pursuant to this Part, and the fee collection procedures set forth in this Part are separate from and in addition to all other fees and fee systems established by law.

## **SUBPART B: PROCEEDINGS FOR COLLECTION OF PERMIT AND INSPECTION FEES**

### **Section 856.201 Notification of Status**

- a) Except as otherwise provided in this Section, the Agency will, no later than January 4, 1985, give written notification of the applicability of this Part to the operator of any hazardous waste disposal site or hazardous waste management facility determined to be subject to the requirements of this Part. Such notice will include:
  - 1) The Agency's determination of the number and types of operational units located within the hazardous waste disposal site or hazardous waste management facility;
  - 2) The annual fee, and quarterly installments thereof, determined by the Agency to be imposed upon the operator by operation of Section 22.8 of the Act;
  - 3) The dates upon which quarterly fee payments are due;
  - 4) Instructions regarding the manner of payment; and
  - 5) Instructions for initiating dispute resolution procedures under Section 856.203.
- b) Where the Agency first determines that a site is or will be subject to the requirements of this Part but the operator has not been so notified pursuant to subsection (a) of this Section, the Agency will promptly notify the operator of the site in the manner specified in subsection (a) of this Section, except that the notice shall additionally specify the amount

and number of quarterly payments determined to be past due, if any, based upon either the calendar quarter of commencement of hazardous waste disposal operations or hazardous waste management operations at the site or the first calendar quarter of 1985, whichever is later.

- c) Nothing in this section shall be construed as limiting, conditioning or extinguishing the liability of a site operator for fees owed pursuant to Section 22.8 of the Act.

(Source: Amended at 13 Ill. Reg. 13212, effective August 7, 1989)

### **Section 856.202 Changes in Status**

- a) Whenever the number or type of operational units located within a hazardous waste disposal site or hazardous waste management facility is or will be changed, the operator of the site shall, on or before the date of such change, notify the Agency in writing, specifying the nature of the change of status; notification after the date of such change shall be deemed not timely.
- b) Whenever the Agency discovers or is advised by the operator of a change in status (i.e., a change in the number or type of operational units) at a hazardous waste disposal site or hazardous waste management facility, the Agency will promptly determine the effect, if any, of such change in status upon the permit and inspection fee for the site.
- c) If a change in status hereunder results in a change in the hazardous waste disposal site's or hazardous waste management facility's permit and inspection fee, the Agency will promptly notify the operator of the site in the manner specified in Section 856.201(a), except that the notice shall additionally specify:
  - 1) The reason for the change;
  - 2) The date of the change;
  - 3) The effect of such change upon the amount of future fee payments; and
  - 4) The amount of retroactive fee increases due, if any, by operation of subsection (d) of this Section.
- d) Where a change in status results in a change in the fee applicable to a site, any effect of such change shall be prospective (i.e., shall be reflected in the next quarterly installment fee payment following the quarter in which the change occurs).
- e) For purposes of this Section, the date of a site's change in status shall be the date on which an operational unit commences operations, ceases operations in accordance with subsection (f) of this Section or is transformed into another type of operational unit (as where an on-site hazardous waste disposal site begins to receive wastes not generated at the site, thereby becoming an off-site hazardous waste disposal site).

Note that a change in status does not necessarily affect the fee applicable to a site.

- f) The status of a site shall not be affected by temporary, seasonal or periodic fluctuations in disposal activities at any operational unit. An operational unit shall be deemed to cease operations (i.e., to have received or injected the final volume of hazardous waste in contemplation of closure) at the earlier of:
- 1) the date on which operations have ceased, as proved by the operator to the Agency;
  - 2) the date on which the operator has proved notice to the Agency that operations have ceased; or
  - 3) the date on which the Agency has discovered that operations have ceased; except that any operational unit which has ceased operations prior to the date of first notice pursuant to Section 856.201 shall be deemed to have ceased operations on the actual date of last receipt or injection of hazardous waste.
- Notwithstanding the provisions of this subsection (f), payment of any fee installment under these rules shall constitute an admission by the operator that the operational unit has not ceased operations.

(Source: Amended at 13 Ill. Reg. 13212, effective August 7, 1989)

### **Section 856.203 Resolution of Disputes**

- a) Within 30 days of receipt of notification from the Agency pursuant to Sections 856.201 or 856.202, the operator of a site may request, in writing, reconsideration by the Agency of its determination either as to the date of commencement or cessation of operation by any type of operational unit or as to the type of operational units at the site, or both; any such writing shall include all pertinent facts and arguments in support of the request for reconsideration. Failure to timely request reconsideration shall constitute waiver of all rights to object to or appeal from the Agency's determination.
- b) Within 30 days of receipt of a request for reconsideration pursuant to paragraph (a) of this Section, the Agency shall respond in writing to the request. Such written response shall constitute final Agency action for purposes of the Administrative Review Law (Ill. Rev. Stat. 1983, ch. 110, par. 3-101 et seq., as amended). Failure by the Agency to timely respond hereunder shall be deemed a denial of the request and shall also constitute final Agency action for purposes of the Administrative Review Law.
- c) Neither the submission of a request for reconsideration nor an appeal from the Agency's final determination shall automatically stay the imposition of fees or the timely payment thereof in the amount

established by the Agency; nothing herein shall limit the site operator's right to seek a stay.

### **Section 856.204 Quarterly Submission of Fees**

- a) Except as otherwise provided in this Section, payment of the permit and inspection fee monies shall be made on a quarterly basis. Such payment shall be received by the Agency on or before the first working day of each calendar quarter; however, the quarterly fee payments for the first two calendar quarters of 1985 shall be due on or before April 15, 1985, and July 15, 1985, respectively. Any owner or operator of a hazardous waste disposal site who by virtue of this subsection (a) is required to make two quarterly fee payments in the month of July, 1985, may defer one such payment for not more than 45 days upon written notice to the Agency received by the Agency on or before the original due date for that payment. The fee for facilities regulated under Section 22.8(b)(7) of the Act (as amended by P.A. 85-1343, effective January 1, 1989) shall not be paid quarterly but rather shall accompany the annual report required by Board regulations for the calendar year for which the report applies.
- b) Any retroactive portion of a fee imposed pursuant to Section 856.201(b) or of a fee increase imposed pursuant to Section 856.202(d) shall be due and payable within 10 days of receipt of notification from the Agency pursuant to Sections 856.201(b) or 856.202(c).
- c) When a hazardous waste disposal site or hazardous waste management facility commences operations after timely notice to the Agency pursuant to Section 856.202(a), no portion of the annual fee shall be retroactively imposed; only those quarterly installments which become due following the calendar quarter in which operations commence shall apply.

(Source: Amended at 13 Ill. Reg. 13212, effective August 7, 1989)

### **Section 856.205 Manner of Payment**

Payment shall be made by check or money order payable to Treasurer, State of Illinois. Payment (and any notice of deferral of payment under Section 856.204(a)) shall be mailed to the Agency at the following address:

Fiscal Services Section  
Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706