

ILLINOIS POLLUTION CONTROL BOARD
March 21, 1984

In the matter of:)
)
PERMIT AND INSPECTION FEES) R84-1
FOR HAZARDOUS WASTE DISPOSAL)
FACILITIES)

In the matter of:)
)
PERMIT AND INSPECTION FEES) R84-7
FOR HAZARDOUS WASTE DISPOSAL)
FACILITIES (FINAL RULE))

FINAL ORDER. ADOPTED EMERGENCY RULE (R84-1)
FINAL OPINION OF THE BOARD
PROPOSED RULE. FIRST NOTICE (R84-7)
PROPOSED OPINION OF THE BOARD (by J. Anderson):

This matter concerns a proposal by the Illinois Environmental Protection Agency (Agency) that the Board adopt a schedule of permit and inspection fees for hazardous waste disposal sites requiring a RCRA permit. The proposal was filed pursuant to Section 5(f) of the Environmental Protection Act (Act), as amended by P.A. 83-0938, otherwise known as S.B. 143, which became effective on December 12, 1983. The relevant portion is Sections 5(f) and 5(g), which read as follows:

(f) Not later than January 1, 1984, the Agency shall recommend a schedule of reasonable permit and inspection fees for hazardous waste disposal facilities requiring a RCRA permit under subsection (f) of Section 21 of this Act. Not later than March 1, 1984, the Board shall prescribe such a fee schedule. Such fees in the aggregate shall be sufficient to adequately cover all costs to the State for the Agency's permit and inspection activities applicable to hazardous waste disposal facilities requiring a RCRA permit. Section 27(b) of this Act shall not be applicable to rulemaking under this Section.

(g) The Board may prescribe reasonable fees for permits required pursuant to this Act. Such fees in the aggregate may not exceed the total cost to the Agency for its inspection and permit systems.

The Agency filed its proposal in 4 pieces:

1. Recommended Schedule and First Statement of Reasons, January 3, 1984.
2. Second Statement of Reasons, January 11, 1984.
3. Proposed Codification and Third Statement of Reasons, January 23, 1984.
4. Amendment to Proposed Codification, January 23, 1984.

The Board conducted 3 public hearings, as follows:

1. Springfield, February 16, 1984;
2. Chicago, February 17, 1984;
3. Chicago, February 23, 1984.

During the course of the hearings and afterwards, the Board received written comments as follows:

1. Standard Oil (Indiana), Ms. Melanie S. Toepfer, February 17, 1984
2. Clayton Chemical Co., Mr. Dave Wieties, February 23, 1984
3. Illinois Power Co. and Johns-Manville Sales Corp., Ms. Carolyn A. Lown, February 24, 1984
4. Chemical Waste Management, Ms. Sheri K. Swibel, February 27, 1984
5. Jones and Laughlin Steel Corp., J. M. Blundon, February 27, 1984
6. Hydropoll, Inc., Dr. Rauf Piskin, February 29, 1984
7. Allied Chemical, Mr. Richard L. Purgason, February 29, 1984.

On February 29, 1984, in order to comply with the time limit specified in Section 5(f) of the Act, the Board adopted 35 Ill. Adm. Code 718 as an emergency rule. At the same time the Board opened Docket Number R84-7, and proposed to adopt Part 718 as a permanent rule. On March 6, 1984 the Hearing Officer incorporated the entire record in R84-1 into R84-7, so that it became in essence a continuation of R84-1.

REASONS FOR EMERGENCY

Section 5(f) of the Act provides that rulemaking to establish the permit and inspection fees for hazardous waste disposal facilities requiring a RCRA permit is not subject to Section 27(b) of the Act, which requires an economic impact study by the Department of Energy and Natural Resources. The Board was able to complete the procedures required by Section 27(a) before the March 1, 1984 deadline of Section 5(f). The comment period of Section 102.163 was shortened by the Hearing Officer in order to get comments before the Board prior to February 29.

Section 28 of the Act requires notice at least 20 days in advance of a public hearing. Considering the time delays involved in getting a notice published, and in getting the transcripts of the hearing, the earliest the Board could have possibly acted was around February 1; the delay to February 29, 1984 was largely caused by initial uncertainty as to whether the Agency had filed a proposal which met the requirements of Section 28 of the Act and Section 102.120.

Administrative Procedure Act (APA) rulemaking requires 90 days, plus whatever time is needed to actually carry out the various filings. The Board could not have completed regular APA rulemaking by March 1, 1984 had it been able to initiate it on February 1, 1984, or even on December 12, 1983. The legislature must have intended that some other route be used.

Section 5.02 of the APA allows emergency rulemaking where an agency finds that an "emergency" exists which requires adoption of a rule in fewer days than is required for regular rulemaking. "Emergency" is defined as "the existence of any situation which an agency finds reasonably constitutes a threat to the public interest, safety or welfare." In establishing the March 1, 1984 deadline, the legislature must have intended the Board to proceed by emergency rulemaking procedures since this is the only avenue by which the Board could have met the date. Pursuant to this legislative intent, the Board finds that the present manner of funding of Agency permit and inspection activities at hazardous waste disposal facilities requiring a RCRA permit, and the resulting constraints on the Agency's permit and inspection levels, constitute a threat to the public interest, safety and welfare.

SUMMARY OF TESTIMONY AND COMMENTS

At the first hearing the Agency presented a single witness and exhibits in support of its proposal. At the

third hearing it modified many of its figures, and presented the data on which the emergency rules are largely based. The Board received public testimony at all three hearings, all of which testimony opposed at least some aspects of the proposal. Included in the major criticisms were the following:

1. Whether the legislature intended the Agency to expand its inspection program, or merely to recover the costs of its existing program (R. 117);
2. Whether the proposed inspection schedule was reasonable;
3. Whether the extent of federal grant funding was to be considered in determining the Agency's costs (R. 360, 574, 580, 592, 596);
4. Whether fees should be charged for actual or projected inspections;
5. Whether injection wells were to be included as "hazardous waste disposal facilities requiring a RCRA permit" (R. 93, 127, 247);
6. Whether the volume disposed of criterion was fair to injection wells which dispose of large volumes of dilute waste (R. 94);
7. Whether to reduce the number of inspections for facilities with good operating histories (R. 88, 111, 267);
8. Whether the fees should be payable on an annual or shorter basis (R. 73, 154, 415, 439, 452);
9. Whether permit fees could be charged for permits other than the actual RCRA permit (R. 403, 409, 415, 417, 432);
10. Whether to allow credits for shutdowns (R. 413, 426, 558);
11. Whether the Agency's overhead was properly accounted for;
12. Whether the criteria concerning the distances from the facility to wells or residences were fair to on-site facilities where the disposal activities are conducted on a small portion of the facility;

13. Whether to include start-up costs;
14. Whether to reduce first-year fees to allow for a phase-in of the program (R. 593);
15. Whether all of the fees should be payable on July 1, 1984.

The Board has addressed many of these issues in the emergency rules. Moreover, Docket No. R84-7 has been opened and an additional hearing has been scheduled to obtain more input prior to adoption of a final rule. The Board intends to act on the permanent rules before July 1, 1984.

SCOPE OF FEE REQUIREMENT

Section 5(f) requires the Board to adopt a schedule of reasonable permit and inspection fees for hazardous waste disposal facilities requiring a RCRA permit. The Board has adopted a definition of "hazardous waste disposal facilities requiring a RCRA permit" which interprets Section 5(f) and determines the scope of the fee requirements. The definition of "hazardous waste disposal facility requiring a RCRA permit", found in Section 718.102, reads as follows:

- 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.

The Section 5(f) fees will apply to facilities which "require" a RCRA permit, regardless of whether the permit has actually been issued. The permit fees will recover costs of other waste permitting activities at these facilities; the inspection fee may be charged for inspections of portions of the facility which are not directly involved with the RCRA permit.

Paragraph (c) of the definition deals with the element of "hazardous waste disposal" in Section 5(f) (R. 127, 156). These follow the definition of "disposal facility" in 35 Ill. Adm. Code 720.110 and the distinction made in 35 Ill. Adm. Code 724 between disposal facilities on the one hand and treatment or storage facilities on the other. The simplest type of hazardous waste disposal facility is a landfill disposing of hazardous waste. The others are subject to some controversy as to whether the legislature intended them to be included under Section 5(f).

Surface impoundments and waste piles are included if they receive hazardous waste and if waste residues are expected to remain on closure. Note that it does not matter whether the residues would be hazardous (see Sections 724.328 and 724.358). If the waste residues are to be removed periodically or at closure, the lagoon or pile is a treatment unit which would not cause the facility to be subject to the fee system.

Land treatment units receiving hazardous waste are subject to the fee system as disposal units since waste residues will remain after closure (R. 340).

Well injection is also regarded as disposal. However, well injection itself is subject to the UIC rather than the RCRA permit requirement. It is possible that a facility could have an injection well with a UIC permit but no RCRA permit. Such a facility would not be subject to the fee system because of paragraph (b). However, associated surface facilities usually require a RCRA permit (R. 121, 303, 306).

LEVELS OF SURVEILLANCE

The Agency proposed to divide the facilities subject to the fees into three categories to define the level of surveillance, which would determine in part the fee to be paid. The levels of surveillance proposed by the Agency were as follows (R. 108):

Continuous (260 inspections per year)

Intensive (52 inspections per year)

Routine (26 inspections per year)

The Board has adopted this concept, but has renamed these as surveillance levels "5", "3" and "1" (R. 270). This will leave room for the possible later definition of two intermediate surveillance levels.

MAXIMUM NUMBER OF BILLABLE INSPECTIONS

The Board has removed the number of inspections from the definitions of the levels of surveillance: the level is determined only by the listed criteria, which are discussed below. The numbers of inspections associated with the levels of surveillance were used in the Agency proposal to project the costs of the program, and hence to set the proposed annual fees. The same numbers have been used to project the quarterly fees in the Board proposal; however, the proposal also includes a per-inspection fee. The Board has specified the maximum number of billable inspections for each surveillance level in order to avoid billing for excessive inspections.

It should be noted that the maximum number of billable inspections for each surveillance level is the same as the number of inspections projected to determine the costs of the program to be covered by the quarterly fees. These numbers do not have to be the same. For example, the Agency could be given start-up money and an overhead fee to compensate it for an average projected level of inspections, but be allowed to bill its direct costs up to a higher maximum. The Board solicits comments on this.

The Agency will be allowed to bill for all inspections at a facility subject to the fee system, whether the inspection deals directly with activities subject to the RCRA permit or not (R. 183). A site visit will be one inspection even if several Agency employees take part (R. 202).

CRITERIA FOR DETERMINING LEVEL OF SURVEILLANCE

The Board has included criteria for determining the level of surveillance in the text of the rules. The criteria closely follow the criteria included with the Agency's proposal. The criteria are as follow:

1. Size of the waste management area (R. 35, 82, 130)
2. Diversity of operations (R. 37, 131, 361)
3. Flood plain (R. 37, 100, 131)
4. Type of operation (R. 39, 132, 152, 192, 361)
5. Waste volume (R. 41, 134)
6. Compatibility/stability of wastestreams (R. 42, 136)

7. Physical state of wastes (R. 44, 137, 361)
8. Proximity to populations (R. 45, 138)
9. Pathways to migration (R. 51, 140)
10. Distance to private wells (R. 51, 114, 141, 362)
11. Distance to public water supplies (R. 51, 141, 362).

The major change is in the first criterion: the Board has specified the size of the waste management area instead of the entire facility. "Waste management area" is defined in Section 718.301 as the smallest rectangular area which encloses all activities for which a RCRA permit is required (R. 83). This could avoid penalizing on-site facilities, which may have only a small portion of the total facility devoted to waste management, and yet still incorporates the Agency's stated purpose in setting 100 acres as the cut-off: that the manager of a small facility should be able to see the entire operation at one time (R. 36).

The Agency's proposal was essentially a binary choice on each criterion. The Board has replaced this with ten points per criterion, although the rule only allows for awarding ten points or zero. Several of the criteria may, in the future, lend themselves to establishment of intermediate point awards. The Board solicits comments on what, if any, the appropriate intermediate points should be.

SUMMARY OF PROPOSAL

The Agency's proposal started out as a schedule of 12 fees payable according to type of facility and surveillance level. This was fleshed out in the modifications to the proposal and testimony at the hearings.

The Board has replaced the Agency's system of 12 fees with 4 fees, the amount of which would depend on the type of facility or surveillance level. The 4 fees are as follows:

1. Permit fee, payable quarterly in advance, based on the estimated hours spent in permitting activities for facilities of 3 types.
2. Inspection fee, payable quarterly, based on the number of actual inspections and the estimated cost of an inspection at each surveillance level.

3. Start-up fee, a one-time fee based on the costs to buy equipment necessary to conduct inspections at the projected surveillance level.
4. Inspection overhead fee, payable quarterly in advance, based on depreciation and maintenance of the equipment included in the start-up fee, and labor costs for laboratory personnel.

These fees relate directly to the 4 elements which are added together to make each of the Agency's proposed 12 fees (Ex. 13). The 4 fees each are based on similar costs and result from simpler calculations than the Agency's system of 12 fees. This should simplify the review of the proposal in R84-7. Splitting the fees has also allowed a simpler statement of the incidents on which each fee depends: either the type of permit or level of surveillance, but not both. It has also allowed the Board to specify different times of payment and incidents: 3 are payable in advance, 1 is payable after the fact according to actual inspections; 3 others are permanent, 1 is temporary.

BILLING

The Agency's proposal did not require it to bill for these fees. This has been added (Sections 718.221 and 718.330). Billing will be appealable (Section 718.315)(R. 158). The date of billing will determine the due date of the fee (Section 718.330).

The Board has also specified some rules which will simplify administration of the fee system: a closing date for determination of the level of surveillance; limitations on credits for facilities which shut down; and limitation on proration for new facilities (R. 70, 84). The system could become unmanageable if the level of surveillance were subject to daily adjustment; furthermore, such daily adjustments would not be consistent with carrying charges on the long-term investments which the Agency will have to make to carry out inspections at the projected level.

Section 718.313 specifies the first day of the quarter as a closing date for determination of the level of surveillance for the rest of the quarter. The level of surveillance is to be based on the normal level of operations, excluding temporary conditions not expected to last more than one-half of a quarter (R. 334).

Modification of the level of surveillance can be initiated by the Agency or the permittee; in either case, 30 days' notice must be given. If this is missed, the level of

surveillance will not be changed, and the modification will be to the following quarter's level.

Rather than prorating the fees for new facilities and shut-downs, the Board has provided for no advance fees during the first partial quarter of operation, and for no refunds during the quarter the facility is shut down (Sections 718.221, 718.341 and 718.342) (R. 116). Note, however, that the Agency is expected to review the level of surveillance, adjust its actual inspection level and bill at the end of the quarter for actual inspections.

Section 718.331 provides a late payment charge of 1.5% per month. This is not stayed by an appeal of a bill or determination, although it would be abated for any portion of a fee which was determined to have been improper. The person appealing will have a choice of paying to avoid any late charge, getting a credit if he wins, or of paying any late charge on final resolution.

LABOR COST

In fiscal 1983 the Agency's Waste Division had 104 employees and a budget of \$4,289,000, including items from the Agency's overall budget attributable to the division's activities. This results in an average labor cost of \$41,240 per employee per year in 1983 (R. 403, 405, 477, 519, 523, 570, 578, 582). Multiplying by 1.05 two times, to allow for 5% inflation in 1984 and 1985, the estimated 1985 labor cost is \$45,468 per employee per year (R. 478, 481).

Based on a 7.5 hour work day, 5 days per week, 52 weeks per year, the Agency's work-year is 1950 hours (R. 190). Its estimated labor cost per work hour is \$45,468 divided by 1950 hours, or \$23.32/hour.

This method of computing the labor cost is subject to criticism since it includes indirect overhead. The way the figure is used below assumes that these overhead items will all increase in proportion to increases in permitting and inspection levels (R. 59, 123, 403, 405, 471, 480).

PERMIT FEE

The permit fee is based on the Agency's estimates of time spent on permitting activities for different categories of hazardous waste disposal facilities requiring a RCRA permit. These facilities are divided into three categories for purposes of cost estimation:

1. Facilities disposing of waste generated at other facilities by means other than well injection (off-site RCRA);
2. Facilities disposing of hazardous waste only by well injection (UIC);
3. Facilities disposing of only hazardous waste generated on the same facility by means other than well injection (On-site RCRA).

The second category is abbreviated as "UIC", after the underground injection control permit (35 Ill. Adm. Code 704, 730). However, the existence of this permit is irrelevant to the applicability of this Part, which is determined by the presence or absence of a RCRA permit. Such permit will usually be required for storage areas associated with well injection (R. 303, 306). To avoid confusion, the abbreviation "UIC" has been deleted from the Agency's proposal, but it will be used in the tables which follow.

The Board has worded the permit fee requirement so as to avoid the possibility that a facility might meet more than one criterion for permit fees. The intention is to charge only one permit fee per facility (R. 115, 193).

The Agency estimates that it devotes the following times each year to the three categories of permits, with the hourly cost figured as above (R. 30, 165, 462, 465, 467):

<u>Permit Type</u>	<u>Hours Per Year</u>	<u>\$ Per Hour</u>	<u>Total Cost</u>
Off-site RCRA	864	\$23.32	\$20,148
UIC	359	\$23.32	\$ 8,372
On-site RCRA	197	\$23.32	\$ 4,594

The hours per year estimates include all permitting activities associated with this category of facility: Part 807 permits, Part 809 permits, supplemental wastestream permits and UIC permits, as well as projections of the hours which will be required to review actual RCRA permits (R. 144, 189, 572, 594). Section 5(f) appears to require the Board to adopt fee schedules to recover costs of all permitting activities at hazardous waste disposal facilities requiring a RCRA permit.

The projected hours represent annualized estimates of the costs of issuing, reissuing and maintaining the permits for the type of facility. The estimate for the RCRA permit

assumes that RCRA permits will be issued for an average of 5 years, so that it includes one-fifth of the estimated hours to review the application (R. 143, 412, 467). An alternative would be a schedule of charges for each type of permit actually held by the facility, possibly payable on application (R. 416, 428, 430, 450).

Quarterly permit fees of Section 718.201 have been established by dividing the quarterly estimated costs by 4 and rounding to the nearest \$100.

INSPECTION FEE

The Agency estimates that it spends two hours each way traveling to sites to perform inspections. It proposes to spend more time per inspection at surveillance level 5 sites than the level 3 or 1 sites. It estimates that the time spent on paperwork following an inspection equals the time spent at the facility. The following summarizes the projected hours per inspection for each surveillance level:

Surveillance Level	Hours			Total
	Travel	Inspection	Paperwork	
5	4	4	4	12
3	4	3	3	10
1	4	2	2	8

The Agency proposes to spend fewer hours per visit at the sites receiving fewer inspections. There is a question as to whether this is appropriate (R. 34, 182, 406, 566). Two hours may represent the historical time spent per inspection at sites projected to receive level 5 surveillance (R. 564).

The travel time is based on average travel time to all facilities in Illinois, rather than time to existing facilities presently thought to be subject to the fee schedules. It has been suggested that two hours round trip is sufficient for two facilities expected to receive level 5 surveillance (R. 405). However, the four hours includes travel time necessary to deliver samples to laboratories (R. 33, 176).

Travel time is 1/3 of the total time involved in inspections at surveillance level 5, facilities projected to be inspected 5 times per week. It has been suggested that stationing full-time inspectors at surveillance level 5 facilities could result in longer inspections at a lower cost (R. 75, 153, 414, 446). However, the Agency was concerned that the public would not be satisfied with the

inspection program if the inspector were perceived to be too closely associated with the facility (R. 56).

The following table summarizes the Agency's direct cost per inspection for the three levels of surveillance:

<u>Surveillance Level</u>	<u>Hours per Inspection</u>	<u>\$ Per Hour</u>	<u>\$ Per Inspection</u>
5	12	\$23.32	\$280
3	10	\$23.32	\$233
1	8	\$23.32	\$187

These figures have been rounded to the nearest \$10 to arrive at the inspection fee schedule in Section 718.321.

NUMBER OF FACILITIES AND INSPECTIONS

The Agency presented a list of 16 facilities which it believes are hazardous waste disposal sites requiring RCRA permits (R. 77, 104, Ex. 7 and 12). These were ranked according to the Agency's proposed criteria. The following table summarizes the projected distribution of inspections among these facilities (R. 82, Ex. 7, 12):

<u>Surveillance Level</u>	<u># Sites</u>	<u>Annual Inspections Per Site</u>	<u>Total Annual Inspections</u>
5	8	260	2080
3	6	52	312
1	2	26	52
Total	16		2444

The Agency presently conducts about 68 inspections per year of the 16 facilities thought to be subject to this proposal. This amounts to an increase by a factor of about 36 over the existing level (R. 179, 199, 455, 562). Some commentators questioned whether such an increase was intended by the legislature in requiring the fee, and whether stepped up inspection levels would increase the protection of the environment (R. 117, 214, 247, 332, 362, 375, Ex. 6). However, Waste Management, Inc., which is projected to receive over 20% of the total inspections at two of its sites, specifically endorsed the proposal to require 260 inspections per year at surveillance level 5 sites (R. 402).

START-UP COSTS

To increase the inspection level by a factor of 36 will require a substantial initial investment in equipment. The

most expensive item is a "g.c./mass-spec", a mass spectrometer connected to a gas chromatograph, and two gas chromatographs. These will be necessary to efficiently analyze waste samples for traces of organic chemicals. They are expected to cost \$170,000 together (R. 178, 180, 515).

The remaining start-up costs are for vans, (R. 488, 492) and for safety and sampling equipment for the inspectors (R. 483, 493, 501, 503, 506, 544, 552, 561). Each inspector will require a van with a complete set of equipment. Determination of the cost requires estimation of the man-years required for the inspection program. The following table summarizes the calculation of the man-years for the program:

<u>Surveillance Level</u>	<u>Total Inspections Per Year</u>	<u>Hours Per Inspection</u>	<u>Man-Hours Per Year</u>
5	2,080	12	24,960
3	312	10	3,120
1	52	8	416
Total	<u>2,444</u>		<u>28,496</u>

Based on a work year of 1950 hours, the projected inspection program will require 14.61 man-years. The remaining start-up costs are based on purchase of vans and equipment for 14.61 men:

<u>Item</u>	<u># Required</u>	<u>Unit Cost</u>	<u>Total Cost</u>
g.c./mass-spec	1	\$170,000	\$170,000
Vans	14.61	\$ 6,750	\$ 98,618
Safety & Sampling	14.61	\$ 7,200	\$105,192
Total			<u>\$373,810</u>

The Agency proposes to conduct inspections at night and on the weekends (R. 203). It is possible that some of this equipment could be shared by inspectors working different shifts. The Board solicits comment on this.

The start-up costs are distributed among the facilities thought to be subject to the inspection fee according to the number of inspections at the projected levels of surveillance. To distribute these costs, the fraction of the total projected inspections to take place at a facility of each surveillance level is computed (R. 539):

<u>Surveillance Level</u>	<u>Annual Inspections Per Site</u>	<u>Total Annual Inspections</u>	<u>Fraction Per Site</u>
5	260	2,080	0.1064
3	52	312	0.02128
1	26	52	0.01064
Total		<u>2,444</u>	

The start-up cost for each facility at a given surveillance level, distributed according to the fraction of inspections at sites of each surveillance level, is calculated as follows (R. 539, 589):

<u>Surveillance Level</u>	<u>Annual Program Cost</u>	<u>Fraction</u>	<u>Annual Cost Per Site</u>
5	\$373,810	0.1064	\$39,773
3	\$373,810	0.02128	\$ 7,955
1	\$373,810	0.01064	\$ 3,977

These figures have been rounded to the nearest \$100 to arrive at the start-up fees of Section 718.322.

INSPECTION OVERHEAD FEE

Maintenance and replacement of the equipment covered by the start-up fee is provided by the inspection overhead fee. The depreciation and maintenance charges have been distributed according to the projected level of inspections, instead of being included in the inspection fee, which is to be paid according to actual inspections. Purchase of the equipment to acquire the capacity to inspect at the indicated level of surveillance is a long-term investment by the Agency. The depreciation and maintenance charges would continue even if the Agency did not actually inspect at the indicated level.

Maintenance on the vans and operating costs are projected at \$2,300 per year per van (R. 489). Maintenance on safety and sampling equipment has been included in the depreciation, since it mostly involves replacement of spent items (R. 505). The Agency was not able to estimate maintenance on the g.c./mass-spec., and no cost has been allowed.

Vans are projected to last 3 years, safety and sampling equipment, 5 years and the g.c./mass-spec., 10 years. Straight line depreciation has been used (R. 491, 502, 517).

Also included in the inspection overhead fee is salary for two organic chemists to operate the g.c./mass-spec. These have been included in the overhead rather than the inspection fee, so that the cost will be distributed according to projected rather than actual inspections. Costs of \$45,468 per employee per year have been allowed, the same as for the inspection fee (R. 518).

The following table summarizes the projected costs to be recovered under the inspection overhead fee:

<u>Item</u>	<u>Cost</u>	<u>Units Or Rate</u>	<u>Annual Cost</u>
Maintenance	\$ 2,300	14.61	\$ 33,603
Depreciation:			
Vans	\$ 98,618	1/3	\$ 32,873
Safety Equipment	\$105,192	1/5	\$ 21,038
Lab Equipment	\$170,000	1/10	\$ 17,000
Lab Personnel	\$ 45,468	2	\$ 90,936
Total			<u>\$195,450</u>

The inspection overhead costs are distributed according to the fraction of inspections at sites of a given level of surveillance, which was derived in calculating the start-up cost. The following table shows the distribution of the inspection overhead costs (R. 540):

<u>Surveillance Level</u>	<u>Annual Program Cost</u>	<u>Fraction</u>	<u>Annual Cost Per Site</u>
5	\$195,450	0.1064	\$20,796
2	\$195,450	0.02128	\$ 4,159
1	\$195,450	0.01064	\$ 2,080

The annual cost per site has been divided by 4 and rounded to the nearest \$100 to arrive at the quarterly inspection overhead fee of Section 718.320.

AGGREGATE COSTS OF PROGRAM

This Section will summarize the annual costs to the Agency of conducting its permit and inspection program at the indicated levels of surveillance; the next section will compute the anticipated revenues from the Part 718 fees.

Estimation of the aggregate costs of the permit program requires a breakdown of the 16 facilities by permit type. There are 5 off-site RCRA facilities, 4 UIC facilities and 7 on-site RCRA facilities thought to be subject to the program (Ex. 7). The aggregate costs are as follows:

<u>Permit Type</u>	<u># Sites</u>	<u>Cost Per Permit</u>	<u>Total Cost</u>
On-site RCRA	5	\$20,148	\$100,740
UIC	4	\$ 8,372	\$ 33,488
Off-site RCRA	7	\$ 4,594	\$ 32,158
Total	16		\$166,386

Computation of the total inspection costs requires the following items which were found above: the cost per inspection at sites for each level of surveillance; and, the total number of inspections to be conducted at all sites of that level of surveillance. The following table summarizes the total direct cost of inspections:

<u>Surveillance Level</u>	<u>Cost Per Inspection</u>	<u># Annual Inspections</u>	<u>Total Cost</u>
5	\$280	2,080	\$582,400
3	\$233	312	\$ 72,696
1	\$187	52	\$ 9,724
		2,444	\$664,820

This computation assumes that the Agency will actually inspect at the projected level, which is approximately equal to the maximum billable inspections.

The aggregate start-up and overhead costs were estimated in the derivation of the start-up fee and inspection overhead fee above. The following summarizes the total projected costs to the Agency at the projected levels of surveillance, assuming that actual inspections take place at the maximum projected level:

Permit Costs	\$166,386	
Inspection Costs	\$664,820	
Inspection Overhead Costs	\$195,450	
Total Annual Continuing Costs		\$1,026,656
Start-up Costs	\$373,810	
Total First Year Cost		\$1,400,466

AGGREGATE REVENUES FROM PROGRAM

The following annual revenues are anticipated from the permit fees of Section 718.201:

<u>Permit Type</u>	<u># Sites</u>	<u>Quarterly Fee</u>	<u># Qtrs.</u>	<u>Total Revenue</u>
On-site RCRA	5	\$5,000	4	\$100,000
UIC	4	\$2,100	4	\$ 33,600
Off-site RCRA	7	\$1,200	4	\$ 33,600
Total	<u>16</u>			<u>\$167,200</u>

The following annual revenues are anticipated from the inspection fees of Section 718.321, based on the projected level of surveillance and assuming that the Agency will actually conduct inspections at the projected level:

<u>Surveillance Level</u>	<u>Annual Inspections</u>	<u>Fee Per Inspection</u>	<u>Total Revenue</u>
5	2,080	\$280	\$582,400
3	312	\$230	\$ 71,760
1	52	\$190	\$ 9,880
Total	<u>2,444</u>		<u>\$664,040</u>

It should be noted that payment of the inspection fee will occur at least 30 days after the end of the quarter in which the inspection occurs, depending on how fast the Agency bills. Even assuming instant billing at the end of the quarter, payment for inspections will be up to 120 days late, and an average of 60 days late. During the first fiscal year only 3 quarterly payments will be made, reducing the first year projected revenue by \$166,010, to \$498,030.

The Board anticipates that the Agency may experience difficulties in bringing this program up to the projected level of inspections immediately, but that its expenses will be incurred over a period of time as it purchases the necessary equipment and hires additional employees. The lag associated with collection of the inspection fee would tend to compensate for a first year surplus which might result if all fees were collected in advance, but could not be spent at once.

The following revenues are anticipated from the quarterly inspection overhead fee of Section 718.320, based on the projected level of surveillance:

<u>Surveillance Level</u>	<u># Sites</u>	<u>Quarterly Fee</u>	<u># Qtrs.</u>	<u>Total Revenue</u>
5	3	\$5,200	4	\$166,400
3	6	\$1,000	4	\$ 24,000
1	2	\$ 500	4	\$ 4,000
Total	<u>11</u>			<u>\$194,400</u>

The following revenues are anticipated from the one-time start-up fee of Section 718.322, based on the projected level of surveillance:

<u>Surveillance Level</u>	<u># Sites</u>	<u>Fee</u>	<u>Total Revenue</u>
5	8	\$39,800	\$318,400
3	6	\$ 8,000	\$ 48,000
1	2	\$ 4,000	\$ 8,000
	<u>16</u>	<u>\$51,800</u>	<u>\$374,400</u>

The following table summarizes the aggregate revenue anticipated from Part 718, assuming the projected levels of surveillance and assuming that the Agency actually conducts inspections at the maximum projected level:

Permit Fee	\$167,200	
Inspection Fee	\$664,040	
Inspection Overhead Fee	<u>\$194,400</u>	
Total Continuing Annual Revenue		<u>\$1,025,640</u>

As noted above, collection of the inspection fee is significantly delayed, reducing the above projected revenue by \$166,010 the first year. The start-up fee will only be collected the first year. The following represents the projected revenue for fiscal 1985:

Permit fee	\$167,200	
Inspection Fee (3/4)	\$498,030	
Inspection Overhead Fee	\$194,400	
Start-up Fee	<u>\$374,400</u>	
Total First Year Revenue		<u>\$1,234,030</u>

The Board finds that the fees adopted as emergency rules will, in the aggregate, be sufficient to adequately cover all costs to the State of the Agency's permit and inspection activities applicable to hazardous waste disposal facilities requiring a RCRA permit.

The Board has added Section 718.103 which provides that any determination of invalidity of any Section does not affect the validity of the entire Part.

As noted above, the Board has opened Docket No. R84-7 and scheduled a public hearing for March 29, 1983 to obtain additional testimony from the Agency and public prior to adoption of permanent rules to replace the emergency rules adopted in this docket. In addition to the issues generally raised in this Opinion, and without implying any limitation on the scope of the hearing, the Board asks that the Agency

have witnesses available to answer questions concerning the following general areas:

1. What is the Agency's direct labor cost for permit reviewers, field inspectors and organic chemists?
2. What items of overhead, included in the above calculation of hourly labor cost from the Waste Division's overall budget, are expected to increase as a result of implementation of the increase in the level of inspections?
3. Can vehicle operation and maintenance be fairly allocated according to projected travel time for inclusion in the inspection fee?
4. What are the direct labor hours involved for review of each type of permit application, reapplication and modification?
5. Should an average projected level of inspections be used to determine equipment needs instead of the maximum billable inspections, and, if so, what is a reasonable level?
6. Can the start-up costs for certain items be efficiently spread over two years rather than one? For example could one g.c., 7 moon suits, and any of the vans be purchased in the second year of the program? Likewise, will the Agency be able to efficiently utilize both chemists during the first year, or could one of the two chemists come on line during the second year? Could the Agency put its organic lab on two shifts to increase present equipment utilization?
7. Does the Agency anticipate having all proposed inspectors begin work immediately? Can the Agency propose a schedule to gradually increase the number of inspectors and inspections over a two year period?
8. How much Federal grant money is currently used to support permit and inspection activities at the 16 sites?
9. Would it be feasible to use Federal matching funds to purchase some or all of the start-up equipment which could then be used to support inspection activities at all sites in the State? For example, is it necessary that each van be equipped with a moon suit, breathing unit, and other expensive equipment or could this equipment be kept at the regional office for use at any site as a specific situation warranted?

10. Given the locations of the 16 sites, the proposed level of inspections and the Agency's intention to conduct weekend and nighttime inspections are 14 vans and sets of equipment necessary, or could one van based at one regional office handle several sites?
11. Is the proposed payment schedule compatible with the appropriations process of the General Assembly or will some funds become available during the wrong years?

This Opinion supports the Board's Orders of February 29, 1984 in R84-1 and R84-7.

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion was adopted on the 21st day of March, 1984 by a vote of 4-2.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board