

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R 25-21
PROPOSED PLACEMENT OF LIMESTONE	)	(Rulemaking – Land)
RESIDUAL MATERIAL STANDARDS:	)	
PROPOSED 35 ILL. ADM. CODE 706	)	

NOTICE

TO: Don A. Brown, Clerk	Daniel Pauley, Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
60 E. Van Buren Street	60 E. Van Buren Street
Suite 630	Suite 630
Chicago, Illinois 60605	Chicago, Illinois 60605
(VIA ELECTRONIC MAIL)	(VIA ELECTRONIC MAIL)

See attached Service List

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board SECOND HEARING PRE-FILED QUESTIONS FOR HOLCIM US, NORTH CENTRAL REGION AND THE CITY OF AURORA, a copy of which is herewith served upon you along with this notice.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Katherine A. Koehler
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DATED: June 3, 2025

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**SECOND HEARING PRE-FILED QUESTIONS FOR HOLCIM US, NORTH CENTRAL
REGION AND THE CITY OF AURORA**

The Illinois Environmental Protection Agency (“IEPA” or “Agency”), by and through its attorneys, hereby submits the following Second Hearing Pre-filed Questions for Holcim US, North Central Region (“Holcim”) and the City of Aurora (“City”) (collectively, “Proponents”) in the above-captioned rulemaking proceeding. These questions will cross-reference sections of Proponents’ May 9, 2025, Initial Post-Hearing Comments for ease of navigation.

AGENCY INTRODUCTION:

The Agency believes the proposed rules fall short of the rulemaking directive given to the Board in Section 22.63 of the Act (415 ILCS 5/22.63). As noted in the proponent’s Initial Post-Hearing Comments, Section 22.63 was enacted to create a regulatory structure for the disposal of Lime Residual Materials (“LRM”) in an underground limestone mine. This was necessary because the disposal operation currently being proposed does not conform to any existing regulatory structures. It does not fit within the requirements for landfills, underground injection, or beneficial use. It is a novel idea that, as far as the Agency and the Proponents are aware, does not exist in any other state.

Section 22.63 of the Act provides that the rules adopted pursuant to Section 22.63 “be consistent with the Board's Underground Injection Control (“UIC”) regulations for Class V wells, provided that the rules shall allow for the limestone residual materials to be delivered to and placed in the mine by means other than an injection well.” 415 ILCS 5/22.63. The one exception to the requirement that the new rules be consistent with the UIC rules was that placement by means other than an injection well is allowed. This exception was included precisely because the City’s current desired means of placing its LRM in a mine did not conform to the UIC rules. The City sought legislation that would have required the Agency to issue a UIC permit allowing the proposed placement of LRM in a mine. However, the Agency opposed such legislation because the proposed method of placement, dropping the LRM down a bored shaft and subsequently moving it into place within the mine using heavy equipment, could not be approved under the UIC program. This was confirmed upon consultation with the USEPA, who indicated that even if the drop shaft could be considered a well under the UIC program, “emplacement” of the LRM would occur once the LRM was dropped down shaft and hit the mine floor. Subsequent movement of the LRM within the mine is not allowed. This was the sticking point that prevented the City from conducting its proposed activities under its existing UIC permit (UIC-015-COA), and the issue it sought to circumvent by seeking the enactment of Section 22.63. The purpose of Section 22.63 was not to reclassify the LRM or the proposed operation. It was designed to create a regulatory structure similar to the UIC program, under which the City had already received a permit, but one which allowed the City’s desired method of placing its LRM in a mine.

The proposed rules are based on several incorrect underlying assumptions. First, under the Act, LRM is water supply treatment plant sludge and therefore, by definition, a waste. “Sludge” is defined as “any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects. 415 ILCS 5/3.465. (emphasis added) “Waste” is defined as “any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material” (emphasis added). Pursuant to these definitions, LRM is categorically both “sludge” and “waste.”

Even if LRM did not fall under the definition of “sludge” and was not an expressly identified “waste”, it would fall within the definition of waste as a discarded material. The City is putting its LRM in the Holcim mine for “permanent placement,” not for storage and later use nor for the purpose of providing structural support for the mine, which the Proponents tout is an added benefit. The Proponents have not demonstrated the mine to be structurally unsound or in need of structural support, nor have they claimed that there were any plans to backfill the mine for structural purposes absent placement of LRM in the mine. Proponents have also failed to adequately demonstrate that the LRM will provide necessary support to the mine from a technical perspective and how that support will be provided when there will be approximately a 10-foot gap between the top of the LRM and the ceiling of the mine void.

As waste, the “placement” of LRM in a mine constitutes “disposal.” Under Section 3.185 of the Act, “disposal” is defined as “the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters” 415 ILCS 5/3.185. The express wording of the definition directly contradicts Proponents’ assertion that the use of the term “placement” in Section 22.63 was intended to recharacterize LRM and its placement in a mine as something other than waste disposal. The legislation that enacted Section 22.63 explicitly did not include any exemptions to the definitions of “sludge,” “waste,” or “disposal.” LRM clearly falls within the Act’s definitions of “sludge” and “waste,” and its placement in the mine clearly falls within the definition of “disposal.” Therefore, the activities to be regulated under the proposed rules constitute a waste disposal operation. This is consistent with the reason the City sought the enactment of Section 22.63 in the first place: to provide an alternative regulatory structure other than the currently existing regulatory structures for landfills and underground injection control wells (both waste disposal operations) as well as one that is consistent with the UIC rules (which also apply to waste disposal operations).

Because placement of LRM in a mine is the disposal of waste, the “authorization” scheme set forth in the proposed rules is inappropriate. Placement of LRM in a mine should, pursuant to the Act, require a permit, not merely an “authorization.” Section 21(d) of the Act provides, in relevant part, as follows:

“Sec. 21. Prohibited acts. No person shall:

* * *

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(1) without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate

records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder;"415 ILCS 5/21(d)(1).

Note that, even if LRM were to be placed in a mine only on a temporary basis, Section 21(d) of the Act would require a storage permit. As with the definitions of "sludge," "waste," and "disposal" discussed above, Section 21(d) does not include an exemption from permitting for the placement of LRM in a mine. Again, this is consistent with providing an alternative regulatory structure to landfills and underground injection control wells, which both require permits, and providing rules that are consistent with UIC rules, which includes permitting.

Further, the proposed rules are intended to be for general applicability by all who qualify. These rules should not be tailored specifically to the City of Aurora as they are currently. While it is essential for the Agency and the Board to understand the specificities of the City's LRM, Holcim's mine, and their proposed operation, the proposed rules are, as they currently stand, too site-specific to be sufficient. There are several instances in the Proponents' Initial Post-Hearing Comments where the Proponents state that certain recommendations by the Board are not relevant or necessary because of facts specific to Holcim's mine.

In addition, the proposed regulations fail to provide for adequate testing, monitoring, and analysis in several key areas. First, lime softening is effective for removal of radium 226 and radium 228. The regulations do not have adequate language for the frequent analysis, monitoring, and cumulative impacts of radionuclides on the works in mine. The Illinois Emergency Management Agency (IEMA) has not been consulted on this proposal as they were with the UIC permit. Utilizing the UIC permit, there would have been no human exposure to cumulative radionuclides after the LRM was disposed. However, now, since the LRM is being placed in the mine and then moved around by mine workers, there will be human exposure. Additionally, in the 2014 letter IEMA provided regarding the UIC permit, IEMA established a condition that the radium sludge injected in the Class V well not exceed an annual average concentration of 25 pCi/g of total radium and if the average annual concentration did exceed 25 pCi/g the City would have to cease injection well activities. Agency Record Volume 3 at 1342-1343. Further, the lime softening process is a filter material to remove contaminants from the water. Specifically, it has known efficacy for the removal of metals and radium. The test results provided indicate that contaminants such as metals, barium, chromium, radionuclides, etc. are present. The regulations should include sampling, analysis, and monitoring of this filter material but they currently do not. Last, the PFAS testing submitted as a demonstration that the lime sludge does not pick up those contaminants is inadequate. The testing method and detection limits used are antiquated and not representative of current standards. The proposed regulations should include PFAS sampling and contingency planning, utilizing the most current testing methods and detection limits, if PFAS are known to be present.

As the Agency has worked with the Proponents on their drafting of rules pursuant to Section 22.63 of the Act, the Agency has continually indicated that the rules need to look more similar to disposal rules. Consistency with the UIC rules is expressly called for in Section 22.63 and is necessary to create an implementable regulatory structure to serve as an alternative to the existing landfill and UIC regulatory structures. However, Proponents have made little change to their drafts over time and therefore have failed to craft rules that are sufficiently consistent with the UIC rules and that adequately address issues common to waste disposal operations and permit

program implementation. As a novel regulatory structure that will serve as an alternative to existing landfill rules and UIC rules, careful consideration must be given to ensure that the rules provide the same protections for human health and the environment. The rules must also contain adequate provisions to allow the implementation of a successful permitting program.

A. Questions pertaining to Proponents' "I. INTRODUCTION"

"At the same time, the City and Holcim respectfully urge the Board to proceed with this rulemaking expeditiously." PC 1 at 1.

1. The City already has several options it can continue to utilize to manage its disposal of LRM. Despite this, do Holcim and the City believe there is a time critical element to the proposal? If not, why should the Board proceed with this rulemaking expeditiously when there is a countervailing need to ensure an adequate regulatory structure?

"Proponents note that such usage was colloquial and referred generally to the relocation or placement of LRM, not to 'disposal' or 'waste' as those terms are defined under the Illinois Environmental Protection Act ("Act") or the Board's solid waste regulations. Indeed, Section 22.63 of the Act intentionally avoids the term 'disposal,' using instead the terms 'placement' or 'placed.' 415 ILCS 5/22.63" PC 1 at 1.

"Accordingly, any references to 'disposal' or 'waste' during the First Hearing or other portions of the record previously filed should be understood in that context and not be construed as an assertion that LRM constitutes 'waste' or that the permanent placement of LRM in an underground mine constitutes 'disposal' under applicable regulatory definitions." PC 1 at 1-2.

2. Section 3.185 of the Act defines "disposal" as "the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters." 415 ILCS 5.3.185. Given this definition, please explain why the placement of LRM in the mine does not constitute "disposal" under the Act.
3. Section 3.535 of the Act defines "waste" as "any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities." 415 ILCS 5/3.535. Given this definition, please explain why the LRM is not considered "waste" under the Act.

B. Questions pertaining to Proponents' Responses to AGO Pre-filed Question #1 to Randi Wille (Section II.A)

"There are no seepage controls in the proposed placement areas because the areas are dry; however, any potential seepage can be routed to the sumps then discharged via the mine's NPDES Permit." PC 1 at 3.

4. Does Holcim contemplate this to be sufficient for protection of groundwater from the LRM operation? Was this seepage contemplated in the City's fluid flow modelling conducted for the UIC Class V permit? Alternatively, was the potential seepage not considered since the joints, voids, and faults were all to be sealed prior to disposal?

C. Questions pertaining to Proponents' Responses to Board's Pre-filed General Questions #2(b) (Section II.B)

"The Board asked a follow-up question regarding the terminology of what is to occur with the LRM. Transcript at 42:8-13. While this issue is addressed in the Introduction above, Proponents reiterate that Section 22.63 of the Act specifically uses the terms 'placement' and 'placed' in reference to the management of LRM." PC 1 at 3.

5. The specific questions asked at this point in the transcript were, "Does that also mean it's disposal of LRM or do you sometime in the future you think that material can be used for some purpose." Transcript at 42:8-13. While the preference for the term "placement" is duly noted, please specifically respond to whether or not there will be a purpose for the material in the future.

D. Questions pertaining to Proponents' Responses to IEPA's Pre-filed Questions #17 (Section II.H)

"These terms were intentionally selected to reflect the statutory framework and do not necessarily equate to 'storage' or 'disposal' as those terms may be used in other regulatory contexts." PC 1 at 5.

6. The legislation in question, as it stands, does not provide an exclusion from the definition of "disposal" as written in the Act. Does Holcim or the City have any evidence to support this assertion that the terms used here do not necessarily equate to "storage" or "disposal" as those terms may be used in other regulatory contexts?

"The permanent placement of LRM within the underground limestone mine is expected to enhance the structural stability of the mined-out rooms and may help reduce the risk or limit the extent of any future subsidence." PC 1 at 6.

7. Is this "enhanced structural stability" an expected side benefit of the placement of the LRM, or the LRM being placed in the mine for stability purposes? If the latter, what was Holcim using or planning on using for stability in the mine absent the ability to use LRM?
8. Is there any technical documentation to support the assertion that the placement of the LRM will enhance the structural stability of the mined-out rooms?

"The dewatered LRM is a cohesive compactible material that fills voids and creates resistance against movement." PC 1 at 6.

9. What type of voids are being discussed here? Will the dewatered LRM seal all cracks/fissures? Or is "void" intended to refer to the mined-out rooms?
10. What strength and permeability do the proponents propose the compacted material achieve? Has large scale test compaction been done on how the material will perform?

"Filling the rooms to the greatest extent practicable provides an additional safeguard by reducing the potential for roof collapse or displacement." PC 1 at 6.

11. If, as mentioned at the First Hearing, the plan is to leave five (5) to ten (10) feet of space between the ceiling of the mined-out room and the stacked LRM (4/17/25 Hearing Transcript at 44:5-10), how does this provide structural stability? What is the structural

strength of the LRM post compaction? Is it equivalent to the mined limestone before it was mined?

E. Questions pertaining to Proponents' Responses to Outstanding Pre-filed Question #1 from IEPA (Section IV.A.1)

“Using the term ‘permit’ could create confusion by implying that a broader or more conventional permitting regime under Act applies, which is not the case here. The use of ‘authorization’ better aligns with the legislative intent and the tailored nature of the statutory provision governing LRM placement.” PC 1 at 11.

12. Please clarify what the legislative intent was in this instance. Does the City have any evidence supporting this claim of legislative intent?
13. Disposal of waste requires a permit under Section 21(d)(1) of the Act. Please point to where the relevant legislation provides an exclusion to this requirement? Why should the placement of LRM be treated differently than all other disposal of waste?

F. Questions pertaining to Proponents' Responses to Outstanding Pre-filed Question #2 from IEPA (Section IV.A.2)

“These provisions served as important reference points in drafting the proposed rules, which incorporate comparable safeguards to ensure the responsible management of LRM.” PC 1 at 12.

14. What are these comparable safeguards?

G. Questions pertaining to Proponents' Responses to Outstanding Pre-filed Question #5 from IEPA (Section IV.A.5)

“Although traditional ‘structural components’ such as liners or leachate collection systems are not applicable to underground LRM placement, the concept of engineering controls is reflected through the requirement for engineered placement plans, operational controls, and long-term monitoring.” PC 1 at 15.

15. Please clarify why traditional “structural components” such as liners or leachate collection systems are not applicable to underground LRM placement.

H. Questions pertaining to Proponents' Responses to Outstanding Pre-filed Question #19 from IEPA (Section IV.A.19)

16. “Based on current geotechnical understanding and best available data, the risk of meaningful migration of dewatered LRM under the proposed framework is extremely low.” PC 1 at 17. Please specify what “current geotechnical understanding and best available data” is being referred to here.
17. Mr. Alexandrou testified that, “Based on current best practices and available scientific data, the risk of meaningful migration is minimal to negligent.” 4/17/25 Hearing Transcript at 14:24; 15:1-2. Is this the same as the “current geotechnical understanding and best available data” that is referred to in the Agency’s Question No. 16 above? If not, please specify what “best practices and available scientific data” Mr. Alexandrou is referring to here.

18. What do the City and Holcim consider to be “meaningful migration”? What do the City and Holcim consider to be “extremely low” risk?

19. Mr. Alexandrou testified that, with regard to expected harms if the dewatered LRM migrates, “However, it is important to underscore that these harms are speculative and unlikely, particularly given the nature of the dewatered material, the site’s geologic containment, and the engineer controls placed.” 4/17/25 Hearing Transcript at 15:16-20. Please specify what “engineer controls” are going to be placed.

“Accordingly, the absence of artificial engineered barriers reflects a reasoned, site-specific approach consistent with both the material properties and the surrounding geologic context.” PC 1 at 17.

20. As stated several times by the City and Holcim, this rulemaking is not intended to be site-specific. As such, why should the absence of artificial engineered barriers reflect a site-specific approach?

I. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #3 from the Board (Section IV.B.i.3)

“The regulations in this Part set forth the requirements for the placement of limestone residual materials generated from the treatment of drinking water by a municipal utility in an underground limestone mine located in whole or in part within the municipality that operates the municipal utility. These rules are intended to implement the requirements of Section 22.63 of the Act.” Section 706.100(a) Proposed Language; PC 1 at 18.

21. Should the LRM placement be limited to portions of the mine that are located within the municipality generating the LRM?

“This Part sets forth authorization requirements for a facility that receives limestone residual material generated from the treatment of drinking water by a municipal utility a publicly owned drinking water treatment plant and permanently places the limestone residual material in the facility, which must be located in whole or in part within the municipality that operates the municipal utility.” Section 706.100(b) Proposed Language; PC 1 at 18.

22. Should this provision be revised to limit the “facility” to an underground limestone mine? If so, please revise the language to ensure “facility” is a mine as identified in Section 22.63 of the Act. As it stands, the proposed language is not sufficiently precise to limit the “facility” to an underground limestone mine.

J. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #2 from the Board (Section IV. B.ii.2)

“The intent of the proposed provision is to provide appeal rights to the applicant for the modification (i.e., operator of the facility) or the person who received the authorization that has been revoked (i.e., operator of the facility).” PC 1 at 19.

23. With regard to the appeal rights, can members of the public appeal?

K. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #4 from the Board (Section IV. B.ii.4)

“Section 706.200 Prohibition Against Unauthorized Placement

- a) Nothing in this Part prohibits otherwise authorized placement of LRM, including via land application as authorized by a permit pursuant to 35 Ill. Adm. Code 309.208.”

Section 706.200(a) Proposed Language; PC 1 at 20.

24. Please clarify as to why the use of “permit” is appropriate with regard to the disposal of LRM via land application but not with regard to the disposal of the LRM in the mine.

L. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #6(b) from the Board (Section IV. B.ii.6.b)

“Introducing a vague, discretionary provision would diminish regulatory certainty for applicants and could invite inconsistent application or delay.” PC 1 at 22.

25. Please clarify why it is more important for applicants to have regulatory certainty than for these applicants to be required to provide all the information requested to establish that they will not cause environmental harm.

M. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #7 from the Board (Section IV. B.ii.7)

“That said, should the Board determine that a specified timeframe is necessary, the City and Holcim would not object to the inclusion of a 30-day minimum submission period prior to the anticipated start of permanent LRM placement. This would provide additional regulatory clarity while still accommodating reasonable project planning and coordination.” PC 1 at 23.

26. To be clear, are the City and Holcim proposing that “permanent LRM placement” can occur prior to a permit being issued as long as the “application submission” was 30 days prior to the anticipated start?

N. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #10 from the Board (Section IV. B.ii.10)

“Proponents are not aware of any regulated recharge areas delineated under Section 17.4 of the Act or Class III groundwater areas, as defined in 35 Ill. Adm. Code 620, located within 1000 meters (3,300 feet) of the facility boundary. However, the Illinois EPA is likely better positioned to confirm this information, as the Agency maintains statewide data on the location of regulated recharge areas and groundwater classifications.” PC 1 at 24.

27. The burden should not be on the Agency to research whether a site is within a regulated recharge area. As these proposed regulations are intended to be for general applicability, not site specific to the City and Holcim, why should the facility map required under Section 706.240(d) not be required to include the location of any regulated recharged areas delineated by the Board under Section 17.4 of the Act, and Class III groundwater under 35 Ill. Adm. Code 620 within 1000 meters (3,300 feet) of the facility boundary regardless of whether or not the proponents are aware of such areas within 1000 meters of their facility boundary?

O. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #11(a) from the Board (Section IV. B.ii.11.a)

“In a populous area, there may be dozens of property owners within a one-quarter mile, which could make the requirement to find and provide the names and addresses of all owners of record of land within one-quarter mile onerous.” PC 1 at 25.

28. Logically, it would seem that if a large amount of property owners are located within the one-quarter mile it would be even more important to inform these owners. Please clarify as to why the presence of *dozens* of property owners within one-quarter mile of the facility does not necessitate informing these property owners despite it being “onerous.”

P. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #11(c) from the Board (Section IV. B.ii.11.c)

“The proposed provision requires the Agency to waive the requirement where the site is located in a populous area such that the requirement would be impracticable.” PC 1 at 25.

29. Why should the Agency be *required* to waive this requirement? Should it not remain discretionary? If not, then a clear standard must be included for when it exactly it must be required.

Q. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #12 from the Board (Section IV. B.ii.12)

“Analytical testing data for the LRM that is representative of the material to be placed, consistent with the parameters identified in Section 706.470.” Section 706.340(h) Proposed Language; PC 1 at 26.

30. Please specify what testing must be conducted including parameters, number and location/spacing of samples to ensure representative sampling.

31. How is “representative” determined here?

R. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #15 from the Board (Section IV. B.ii.15)

“By March 1st of each year, the operator must submit an annual report, for the prior year, to the Agency. The annual report must include:

the annual quantity of LRM, in wet tons, placed into the facility;” Section 706.500(b) Proposed Language; PC 1 at 28.

32. Several times in the First Hearing proponents referred the LRM as being “dewatered” or “dried out” before going into the mines. If this is the case, please clarify why the proposed language continues to refer to “wet tons” when discussing the quantity of LRM.

S. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #17 from the Board (Section IV. B.ii.17)

“For example, proposed Section 706.720 sets forth specific operational standards that must be reflected in the authorization, including that placement of LRM must be placed in a safe manner that protects human health and the environment (706.720(b));...minimizing exposure and potential migration pathways (706.720(c)); ...the operator shall ensure that placement of LRM does not result in unintentional off-site migration (706.720(p)).” PC 1 at 29.

33. Please comment on whether the “potential migration pathways” can be eliminated or just minimized.

34. Please comment on whether the proposed language is intended to only prevent “off-site migration.”

“Additionally, proposed Section 706.430 requires the authorization to include a provision requiring the operator to take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the authorization.” PC 1 at 29.

35. Please clarify as to whether the proponents are proposing that if they are in compliance with the “authorization” then they do not have to worry about any adverse impacts.

36. Why do the proposed rules allow for adverse impacts on the environment at all? There should be no adverse impacts on the environment.

“These regulatory requirements, combined with the physical characteristics of dewatered LRM – namely, its semi-solid consistency and low permeability – serve as engineering and operational controls that significantly reduce the risk of migration into USDWs.” PC 1 at 29-30.

37. Please clarify if the “regulatory requirements combined with the physical characteristics of dewatered LRM” only serve to significantly reduce the risk of migration and not eliminate it completely.

T. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #20(c) from the Board (Section IV. B.ii.20.c)

“The use of this language is intentional and reflects a desire to preserve regulatory flexibility, allowing the Illinois EPA to evaluate financial responsibility on a case-by-case basis, consistent with the operator’s financial capacity and the scale of operations.” PC 1 at 33.

38. Why should the operator’s financial responsibility depend on the financial capability of the operator and not be proportional to the risk and management needed at the facility?

U. Questions pertaining to Proponents’ Responses to Outstanding Pre-filed Question #24 from the Board (Section IV. B.ii.24)

“Proposed Section 706.620 is modeled, in part, on Section 702.186(d). Section 702.186(d) states that the Board can revoke a permit if a ‘determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification, reissuance, or revocation.’” PC 1 at 38.

39. Please clarify that the Proponents are suggesting they will only “remediate” to acceptable levels if requirement to by permit modification, reissuance, or revocation.

40. If the proponents are proposing an “authorization” as opposed to a permit, how can the permitted activity “be regulated to acceptable levels by permit modification, reissuance, or revocation?”

V. Questions pertaining to Proponents' Responses to Outstanding Pre-filed Question #25 from the Board (Section IV. B.ii.25)

“Accordingly, the procedure for revocation under proposed Section 706.620 would require the Agency to ... 4. Obtain a Board order revoking the authorization, if the Board finds that cause exists.” PC 1 at 39.

41. As obtaining this order could take months or years, are the proponents proposing the facility still be allowed to operate in the meantime?
42. Why should the Agency have to go to the Board to revoke an authorization originally issued by the Agency?

AGENCY CONCLUSIONS:

As stated above, the Agency believes the proposed rules, as they currently stand, fall short of the rulemaking directive given to the Board in Section 22.63 of the Act. Section 22.63 provides that the rules adopted pursuant to it must be consistent with the Board's Underground Injection Control regulations for Class V wells, provided that the rules shall allow for limestone residual materials to be delivered to and placed in the mine by means other than an injection well. The purpose of Section 22.63 was not to reclassify the LRM or the proposed operation. It was designed solely to create a regulatory structure similar to the UIC program, but one that allowed for an alternative method of placing LRM in a mine. The Agency has long indicated to Proponents that these proposed rules need to look more like disposal rules. However, Proponents have made little change to their drafts over time to follow this indication. As a novel regulatory structure that will serve as an alternative to existing landfill rules and UIC rules, careful consideration must be given to ensure that the rules provide the same protections for human health and the environment.

Further, the proposed rules provide for an “authorization” scheme instead of the necessary permitting process. Section 21(d) of the Act specifically provides that the conducting of any waste-storage, waste-treatment, or waste-disposal operations without a permit is prohibited. This is exactly what Proponents seek to do. Section 21(d) does not provide an exemption from permitting for the placement of LRM in a mine; therefore, a permit should be required prior to any such placement.

There are also severe technical deficiencies with the proposed regulations, specifically concerning the monitoring and testing of the material. Some of these deficiencies are due to the fact that the City and Holcim seem to have tailored these proposed rules to be site-specific instead of generally applicable. This has resulted in necessary safeguards and monitoring being deemed unnecessary by the City due to specificities that only apply to their proposed site. These rules are not generally applicable as they stand, and, even with regard to the City and Holcim, fail to provide for necessary and important testing and monitoring. As mentioned above, IEMA has not been consulted on this proposal despite the fact that there will be continued human exposure to the LRM even after it is disposed of in the mine.

As such, the Agency ask that the Board not proceed with an expedited rulemaking as requested by the Proponents so that an adequate regulatory structure can be developed to properly address environmental and human health protection and Agency administration.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

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DATED: June 3, 2025

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R2025-021
PROPOSED PLACEMENT OF LIMESTONE	)	(Rulemaking – Land)
RESIDUAL MATERIAL STANDARDS:	)	
PROPOSED 35 ILL. ADM. CODE 706	)	

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state the following:

I have electronically served the attached SECOND HEARING PRE-FILED QUESTIONS FOR HOLCIM US, NORTH CENTRAL REGION AND THE CITY OF AURORA upon the following:

See attached Service List

I affirm that my e-mail address is katherine.koehler@illinois.gov; the number of pages in the e-mail transmission is 15; and the e-mail transmission took place before 5:00 p.m. on June 3, 2025.

Respectfully submitted,

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY**

By: /s/ Katherine A. Koehler
Katherine A. Koehler
Assistant Counsel
Division of Legal Counsel

DATED: June 3, 2025

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SERVICE LIST

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