

ORIGINAL

BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

RECEIVED  
CLERK'S OFFICE

MAR 29 2002

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF:	)	
	)	R02-1
RCRA SUBTITLE C UPDATE, USEPA	)	(Identical-in-Substance
AMENDMENTS (January 1, 2001 through	)	Rulemaking - Land)
June 30, 2001)	)	

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RCRA SUBTITLE C UPDATE, USEPA	)	R02-12
AMENDMENTS (July 1 through December	)	(Identical-in-Substance
31, 2001 and January 22, 2002)	)	Rulemaking - Land)

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UIC UPDATE, USEPA AMENDMENTS	)	R02-17
(July 1, 2001 through December	)	(Identical-in-Substance
31, 2001)	)	Rulemaking - Land)
	)	(Consolidated)

*P.C.#5*

NOTICE

TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board, the RESPONSE OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO PUBLIC COMMENT PERIOD FOR PROPOSED IDENTICAL-IN-SUBSTANCE RULES, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

*Susan J. Schroeder*  
Susan J. Schroeder  
Associate Counsel  
Division of Legal Counsel

Dated: March 28, 2002  
Agency File Number:

1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

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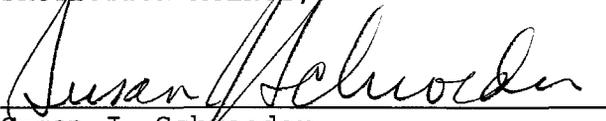
RESPONSE OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
PURSUANT TO PUBLIC COMMENT PERIOD FOR PROPOSED  
IDENTICAL-IN-SUBSTANCE RULES.

NOW COMES THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, (hereinafter "Agency"), by and through one of its attorneys, Susan J. Schroeder, pursuant to Section 7.2 of the Environmental Protection Act ("Act") with responses to proposed amendments to the Resource Conservation and Recovery Act of 1976, Subtitle C (RCRA Subtitle C) Hazardous Waste Management regulations at 40 C.F.R. 260 et seq, and to the underground injection control (UIC) regulations that USEPA adopted to implement Section 1421 of the federal Safe Drinking Water Act (SDWA) at 42 U.S.C. 300h.

The proposed regulations were published through an order of the Board dated January 24, 2002. The Agency's comments pursuant to the public comment period for the proposed identical-in-substance rules are included with this filing as Attachments A and B.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

  
Susan J. Schroeder  
Associate Counsel  
Division of Legal Counsel

ATTACHMENT A

FEDERAL REGISTER CITATION	FEDERAL SECTION AFFECTED	STATE SECTION AFFECTED	COMMENTS
66 FR 58258	268.40	728.Table T	For waste code "K176 - Mercury", CAS <sup>2</sup> No. reads as "7438-97-6". Field should be corrected to read as "7439-97-6".
			For waste code "K178 - 1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin," CAS <sup>2</sup> No. reads as "35822-46-9". Field should be corrected to read as "35822-39-4".
			For waste code "HxCDD's," CAS <sup>2</sup> No. does not appear in State Rule.
			For waste code "HxCDF's," CAS <sup>2</sup> No. does not appear in State Rule.
			Omitted entry in State Rule for 1,2,3,4,6,7,8,9-Octachlorodibenzofuran.
			For waste code "PeCDD's," CAS <sup>2</sup> No. does not appear in State Rule.
			For waste code "PeCDF's," CAS <sup>2</sup> No. does not appear in State Rule.
			For waste code "TCDD's," CAS <sup>2</sup> No. does not appear in State Rule.
			For waste code "TCDF's," CAS <sup>2</sup> No. does not appear in State Rule.
			For waste code "Thallium," the non-wastewater concentration limit does not appear in the State rule. Language in the Federal rule indicates that a concentration limit of 0.20 mg/L TCLP has been established.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

ATTACHMENT B

1. The Agency would like to thank the Board for its quick action in response to the amendments to the federal corrective action management unit ("CAMU") regulations adopted by the United States Environmental Protection Agency ("USEPA") on January 22, 2002. The Agency respectfully reiterates its request that the Board complete this rulemaking by April 22, 2002, at least with respect to the CAMU regulation amendments, so the Agency can obtain interim authorization by rule for those amendments.
2. The Board requests comments on the text and location of Board Notes proposed in response to its review of Battery Recyclers, Inc. v. EPA, 208 F.3d 1047 (D.C. Cir. 2000).
  - a. Regarding the Board Note proposed for Sections 728.124(a) and 728.134(a), the Agency agrees with the text of the note. Since the Board's adoption of the proposed Board Note, the USEPA, in response to Battery Recyclers, amended 40 C.F.R. § 261.24(a) to exclude manufactured gas plant waste from the Toxicity Characteristic Leaching Procedure requirement of that Section. See 67 Fed. Reg. 11251 (March 13, 2002). Because the USEPA amended only 40 C.F.R. § 261.24(a), it appears that Section 728.134(a), the corresponding Board regulation, is the proper location for the Board Note.
  - b. The Board also proposes the addition of a Board Note to Sections 721.102(c)(3) and 721.104(a)(17). The Agency notes that the USEPA's recent rulemaking also amended 40 C.F.R. §§ 261.2(c)(3) and 261.4(a)(17) in response to Battery Recyclers, the federal regulations corresponding to Sections 721.102(c)(3) and 721.104(a)(17) of the Board's regulations.
3. The Board proposes to change Section 724.654(g) so the first sentence reads as follows: "Staging piles are subject to land disposal restrictions and federal minimum technological requirements." This language conflicts with the deleted language it replaces, as well as the remainder of the paragraph. A "not" should be added to the sentence so it reads as follows: "Staging piles are not subject to land disposal restrictions and federal minimum technological requirements."

STATE OF ILLINOIS  
COUNTY OF SANGAMON

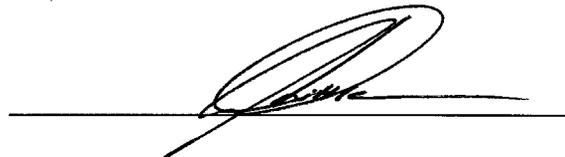
PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached NOTICE and RESPONSE OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO PUBLIC COMMENT PERIOD FOR PROPOSED IDENTICAL-IN-SUBSTANCE RULES upon the person to whom it is directed, by placing a copy in an envelope addressed to:

Dorothy Gunn, Clerk  
Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

(FEDERAL EXPRESS)

and mailing it from Springfield, Illinois on March 28, 2002, with sufficient postage affixed.



SUBSCRIBED AND SWORN TO BEFORE ME  
this 28<sup>th</sup> day of March, 2002.

Brenda Boehner  
Notary Public



THIS FILING IS SUBMITTED ON RECYCLED PAPER