

ILLINOIS POLLUTION CONTROL BOARD
April 21, 1988

IN THE MATTER OF:)
)
UIC UPDATE, USEPA REGULATIONS) R88-2
(7-1-87 THROUGH 12-31-87))

PROPOSAL FOR PUBLIC COMMENT

PROPOSED OPINION OF THE BOARD (by J. Anderson):

By a separate Order, pursuant to Section 13(c) of the Environmental Protection Act (Act), the Board is proposing to amend the UIC regulations found in 35 Ill. Adm. Code 704.

On January 7, 1988 the Board opened this docket for the purpose of updating the UIC rules to agree with recent USEPA amendments.

Section 13 of the Act governs adoption of regulations establishing the UIC program in Illinois. Section 13(c) provides for quick adoption of regulations which are "identical in substance" to federal regulations; Section 13(c) provides that Title VII of the Act and Section 5 of the Administrative Procedure Act shall not apply. Because this rulemaking is not subject to Section 5 of the Administrative Procedure Act, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR). The federal UIC regulations are found at 40 CFR 144 and 146. This rulemaking updates Illinois' UIC rules to correspond with federal amendments during the period July 1 through December 31, 1987. The Federal Register utilized is as follows:

52 Fed. Reg. 45797 December 1, 1987

HISTORY OF RCRA and UIC ADOPTION

The Illinois RCRA and UIC (Underground Injection Control) regulations, together with more stringent state regulations particularly applicable to hazardous waste, include the following:

702	RCRA and UIC Permit Programs
703	RCRA Permit Program
704	UIC Permit Program
705	Procedures for Permit Issuance
709	Wastestream Authorizations
720	General
721	Identification and Listing
722	Generator Standards

723	Transporter Standards
724	Final TSD Standards
725	Interim Status TSD Standards
726	Specific Wastes and Management Facilities
728	USEPA Land Disposal Restrictions
729	Landfills: Prohibited Wastes
730	UIC Operating Requirements
731	Underground Storage Tanks

Special procedures for RCRA cases are included in Parts 102, 103, 104 and 106.

Adoption of these regulations has proceeded in several stages. The Phase I RCRA regulations were adopted and amended as follows:

R81-22	45 PCB 317, February 4, 1982, 6 Ill. Reg. 4828, April 23, 1982.
R82-18	51 PCB 31, January 13, 1983, 7 Ill. Reg. 2518, March 4, 1983.

Illinois received Phase I interim authorization on May 17, 1982 (47 Fed. Reg. 21043).

The UIC regulations were adopted as follows:

R81-32	47 PCB 93, May 13, 1982; October 15, 1982, 6 Ill. Reg. 12479.
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The UIC regulations were amended in R82-18, which is referenced above. The UIC regulations were also amended in R83-39:

R83-39	55 PCB 319, December 15, 1983; 7 Ill. Reg. 17338, December 20, 1983.
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Illinois received UIC authorization February 1, 1984. The Board has updated the UIC regulations:

R85-23	June 19, 1986; 10 Ill. Reg. 13274, August 8, 1986.
R86-27	Dismissed April 16, 1987 (No USEPA amendments through 12/31/86).
R87-29	January 21, 1987; 12 Ill. Reg. 6673, April 8, 1988; (1/1/87 through 6/30/87)
R88-2	This Docket (7/1/87 through 12/31/87)

The Phase II RCRA regulations included adoption of Parts 703 and 724, which established the permit program and final TSD standards. The Phase II regulations were adopted and amended as follows:

R82-19 53 PCB 131, July 26, 1983, 7 Ill. Reg. 13999,
October 28, 1983.

R83-24 55 PCB 31, December 15, 1983, 8 Ill. Reg. 200,
January 6, 1984.

On September 6, 1984, the Third District Appellate Court upheld the Board's actions in adopting R82-19 and R83-24. (Commonwealth Edison et al. v. IPCB, 127 Ill. App. 3d 446; 468 NE 2d 1339 (Third Dist. 1984).)

The Board updated the RCRA regulations to correspond with USEPA amendments in several dockets. The period of the USEPA regulations covered by the update is indicated in parentheses:

- R84-9 64 PCB 427, June 13, 1985; 9 Ill. Reg. 11964,
effective July 24, 1985. (through 4/24/84)
- R85-22 67 PCB 175, 479, December 20, 1985 and January 9,
1986; 10 Ill. Reg. 968, effective January 2,
1986. (4/25/84 -- 6/30/85)
- R86-1 July 11, 1986; 10 Ill. Reg. 13998, August 22,
1986. (7/1/85 -- 1/31/86)
- R86-19 October 23, 1986; 10 Ill. Reg. 20630, December 12,
1986. (2/1/86 -- 3/31/86)
- R86-28 February 5 and March 5, 1987; 11 Ill. Reg. 6017,
April 3, 1987. Correction April 16, 1987; 11 Ill.
Reg. 8684, May 1, 1987. (4/1/86 -- 6/30/86)
- R86-46 July 16, 1987; August 14, 1987; 11 Ill. Reg.
13435. (7/1/86 -- 9/30/86)
- R87-5 October 15, 1987; 11 Ill. Reg. 19280, November 30,
1987. (10/1/86 -- 12/31/86)
- R87-26 December 3, 1987; 12 Ill. Reg. 2450, January 29,
1988. (1/1/87 -- 6/30/87)
- R87-32 Correction to R86-1; September 4, 1987; 11 Ill.
Reg. 16698, October 16, 1987.
- R87-39 Proposed February 25, 1988; 12 Ill. Reg. 6392,
April 8, 1988. (7/1/87 -- 12/31/87)

Illinois received final authorization for the RCRA program effective January 31, 1986.

The Board added to the federal listings of hazardous waste by listing dioxins pursuant to Section 22.4(d) of the Act:

R84-34 61 PCB 247, November 21, 1984; 8 Ill. Reg. 24562, effective December 11, 1984.

This was effectively repealed by R85-22, which included adoption of USEPA's dioxin listings. The Board has adopted a USEPA delisting at the request of Amoco:

R85-2 April 24, 1986; 10 Ill. Reg. 8112, effective May 2, 1986.

The Board has procedures to be followed in cases before it involving the RCRA regulations:

R84-10 62 PCB 87, 349, December 20, 1984 and January 10, 1985; 9 Ill. Reg. 1383, effective January 16, 1985.

The Board also adopted in Part 106 special procedures to be followed in certain determinations. Part 106 was adopted in R85-22 and amended in R86-46, listed above.

The Board has also adopted requirements limiting and restricting the landfilling of liquid hazardous waste, hazardous wastes containing halogenated compounds and hazardous wastes generally:

R81-25 60 PCB 381, October 25, 1984; 8 Ill. Reg. 24124, December 4, 1984;

R83-28 February 26, 1986; 10 Ill. Reg. 4875, effective March 7, 1986.

R86-9 Emergency regulations adopted October 23, 1986; 10 Ill. Reg. 19787, effective November 5, 1986.

The Board's action in adopting emergency regulations in R86-9 was reversed (CBE and IEPA v. IPCB et al., First District, January 26, 1987). Hearings on permanent rules are pending.

GENERAL DISCUSSION

The USEPA amendments derive from a single Federal Register: 52 Fed. Reg. 45797, December 1, 1987. This includes RCRA modifications, which are addressed in R87-39. Some of the modifications are joint RCRA/UIC modifications, which are also addressed in R87-39. These amendments concern the relationship between RCRA and UIC permits.

SPECIFIC DISCUSSION

Section 704.151 Interim Status for Class I Wells

This Section is drawn from 40 CFR 144.1(h), which was added at 52 Fed. Reg. 45797, December 1, 1987. A hazardous waste

injection well is now required to have both a RCRA and a UIC permit. RCRA interim status may continue beyond issuance of a UIC permit, until a RCRA permit is issued or until the well qualifies for a permit by rule. The interim status requirements are specified by Parts 704 and 730, and by Section 725.530.

Parts 702 through 704 were based on USEPA's consolidated permit rules, which have now been deconsolidated. There is therefore no close connection between the organization of Part 704 and 40 CFR 144. Conversion tables are contained in the Opinions in R85-23 and R86-1. USEPA has placed the interim status requirement in the introductory Section to Part 144. The way the Board's rules are arranged, it is more appropriate to place these requirements in Subpart C.

Section 704.161 Application for Permit

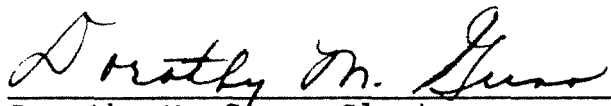
40 CFR 144.31(g) was amended at 52 Fed. Reg. 45797, December 1, 1987. This specifies certain material the operator of a Class I well has to provide in the UIC application. This includes dates of operation, wastes which have been injected and any available information concerning past releases.

The Board has adopted this as Section 704.161(d). Section 704.161(c) includes State rules which generally require the operator to demonstrate no migration in the application, and to allow the Agency to promulgate forms.

This Proposed Opinion supports the Board's proposed Order of this same day.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Proposed Opinion was adopted on the 21st day of April, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board