

ILLINOIS POLLUTION CONTROL BOARD
September 17, 1998

IN THE MATTER OF:)
)
RCRA UPDATE, USEPA REGULATIONS) R98-21
(July 1, 1997, through December 31, 1997)) (Identical-in-Substance
) Rulemaking - Land)

IN THE MATTER OF:)
)
RCRA UPDATE, USEPA REGULATIONS) R99-2
(January 1, 1998, through June 30, 1998)) (Identical-in-Substance
) Rulemaking - Land)

IN THE MATTER OF:)
)
UIC UPDATE, USEPA REGULATIONS) R99-7
(January 1, 1998, through June 30, 1998)) (Identical-in-Substance
) Rulemaking - Land)

Proposed Rule. Proposal for Public Comment.

OPINION OF THE BOARD (by K.M. Hennessey):

Under Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (1996)), the Board proposes amendments to the Illinois regulations that are “identical-in-substance” to hazardous waste regulations that the United States Environmental Protection Agency (USEPA) adopted to implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C), 42 U.S.C. §§ 6921 *et seq.* (1996). Under Sections 13(c) of the Act (415 ILCS 5/13(c) (1996)), the Board proposes amendments to the Illinois regulations that are “identical-in-substance” to underground injection control (UIC) regulations that USEPA adopted to implement provisions of the Safe Drinking Water Act (SDWA), 42 USC § 300h *et seq.* (1996). The nominal timeframe of this consolidated docket includes federal RCRA Subtitle C amendments that USEPA adopted in the periods July 1, 1997, through December 31, 1997, and January 1, 1998, through June 30, 1998. The nominal timeframe also includes federal UIC amendments that USEPA adopted in the period January 1, 1998, through June 30, 1998. However, these dockets also considers specified actions taken after June 30, 1998, that modify actions which USEPA took during the nominal timeframes of these dockets.

Section 22.4(a) provides for quick adoption of regulations that are “identical-in-substance” to federal regulations that USEPA adopts to implement Sections 3001 through 3005

of RCRA, 42 U.S.C. §§ 6921-6925 (1996). Section 22.4(a) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 & 5-40 (1996)) do not apply to the Board's adoption of identical-in-substance regulations. The federal RCRA Subtitle C regulations are found at 40 C.F.R. 260 through 268, 270 through 271, 273, and, 279.

Section 13(c) similarly provides for quick adoption of regulations that are "identical-in-substance" to federal regulations that USEPA adopts to implement Section 1421 of SDWA, 42 U.S.C. § 300h (1996)). The federal UIC regulations are found at 40 C.F.R. 144 through 148. Because this consolidated rulemaking is not subject to Section 5 of the APA, it is not subject to first-notice or second-notice review by the Joint Committee on Administrative Rules (JCAR).

This proposed opinion supports the proposed order that the Board also adopts today. The Board will cause the proposed amendments to be published in the *Illinois Register* and will hold the docket open to receive public comments for 45 days after the date of publication.

REASONS FOR DELAY

In January 1998, the Board reserved docket R98-21 for amendments to the federal RCRA Subtitle C hazardous waste management regulations that USEPA adopted in the period of July 1, 1997, through December 31, 1997. In July 1998, the Board reserved docket R99-2 for RCRA Subtitle C amendments that USEPA adopted in the period of January 1, 1998, through June 30, 1998, and docket R99-7 for federal UIC program amendments that occurred in the same period. Under Section 7.2 of the Act, the deadline for Board adoption of amendments under docket R98-21 is December 5, 1998, which is one year after the earliest federal amendments that occurred in the timeframe of the docket. The deadline for Board adoption of amendments under RCRA Subtitle C docket R99-2 is similarly April 15, 1999, and that for UIC docket R98-5 is May 5, 1999.

Section 7.2 of the Act provides that the Board can extend the deadline for adoption of identical-in-substance amendments by publishing a notice in the *Illinois Register* that states the reasons for delay. On August 20, 1998, the Board adopted the more than 650 pages of amendments in the consolidated RCRA Subtitle C and UIC update docket (R97-21/R98-3/R98-5). The Board will file those amendments with the Office of the Secretary of State on or shortly after September 19, 1998, pursuant to our primacy agreement with the USEPA, which requires the Board to delay filing adopted amendments for 30 days to allow USEPA an opportunity to review and comment on the rules before they become effective.

The Board has prepared today's proposal during the pendency of the prior consolidated docket. However, the Board could not and cannot easily propose the amendments involved in this docket, for practical reasons, until we actually file those involved in the preceding docket. Doing so for such extensive, complex, and overlapping amendments could easily result in error. The order containing the proposed rule text is over 550 pages in length, and 34 of the 75 Sections involved in this proceeding are also involved in the prior consolidated update

docket R97-21/R98-3/R98-5. Thus, today is the first date when the Board can reasonably act to propose the present amendments.

Adopting this proposal for public comment today will allow the following estimated progress in this docket, assuming no unforeseen events result in additional delay:

<u>Present Due date:</u>	<u>December 5, 1998</u>
<u>Proposal adopted date:</u>	<u>September 17, 1998</u>

Projected Docket Progress:

Submission for <i>Illinois Register</i> Publication:	September 28, 1998
<i>Illinois Register</i> publication date:	October 9, 1998
End of 45-day public comment period:	November 23, 1998
<u>Board Consideration for Adoption:</u>	<u>December 17, 1998</u>
End of 30-day holding period:	January 17, 1999
<u>Possible filing and effective date:</u>	<u>January 25, 1999</u>
Possible Register publication date:	February 5, 1999

Based on these estimates, it appears that the Board will vote to adopt the present amendments shortly after the statutory due date of December 5, 1998. Given the additional time necessary to withhold filing for 30 days to allow USEPA review and to actually prepare and submit the rules to the Office of the Secretary of State, the Board presently anticipates that we will complete all necessary actions to adopt the present amendments on or before February 1, 1999. Having thus found that additional time will be necessary, the Board presently anticipates that the present amendments will be filed and become effective on or before February 22, 1999.

The Board will cause a copy of the foregoing to promptly appear as a Notice of Public Information in the *Illinois Register*.

CONSOLIDATION OF DOCKETS

The Board is consolidating two RCRA Subtitle C update dockets, R98-21 and R99-2, and a UIC update docket, R99-7, for the sake of expedience and the convenience of the regulated community. The Board is consolidating the UIC amendments in docket R99-7 with the RCRA Subtitle C amendments in docket R99-2 because USEPA adopted the federal amendments from which the UIC amendments derive as a segment of the federal RCRA Subtitle C amendments. Thus, the UIC amendments are very closely related to some of the RCRA Subtitle C amendments involved.

We are further consolidating the RCRA Subtitle C amendments involved in R99-2 with those involved in R98-21 to speed ultimate adoption of all the amendments involved. Rather than further delay the adoption of the R99-2 and R99-7, which would likely require publication of a notice of reasons for delay in those dockets, consolidation will allow the Board

to adopt all of the amendments in the most expeditious manner and at the earliest ultimate time.

Further supporting consolidation, on September 9, 1998, the Board received public comment number one (PC 1, described below on page 9 of this opinion). That comment requests that the Board include certain May 26, 1998, federal amendments involved in docket R99-2 in our consideration of the R98-21 amendments. PC 1 states: "There are many changes in this rule which will have a dramatic impact on the waste disposal industry which would favor the economic climate in Illinois if they were adopted as quickly as possible." For that reason as well, the Board will consolidate the dockets.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

Again, three separate dockets are consolidated in this proceeding. R98-21 includes federal RCRA Subtitle C amendments that occurred during the period July 1, 1997, through December 31, 1997. R99-2 includes the federal RCRA Subtitle C amendments that occurred in the period January 1, 1997, through June 30, 1997. Finally, R99-7 includes federal UIC amendments that occurred in the period January 1, 1998, through June 30, 1998. The following briefly summarizes the federal actions that occurred in each of these separate docket numbers. It also states what action is required of the Board as a result of each federal action.

Docket R98-21: July 1, 1997, through December 31, 1997, RCRA Subtitle C Amendments

USEPA amended the federal RCRA Subtitle C regulations four times of interest to the Board during the period July 1, 1997, through December 31, 1997. These are summarized as follows, along with a description of the Board action they require, if any:

62 Fed. Reg. 37699 (July 14, 1997)

USEPA extended the capacity variance from the land disposal restrictions for K088 waste for three months, until October 8, 1997. The Board adopted corresponding amendments to the Illinois regulations in its opinion and order of November 6, 1997, in consolidated docket R96-10/R97-3/R97-5. No further Board action is required.

62 Fed. Reg. 45568 (August 28, 1997)

USEPA issued a second emergency extension of the alternative treatment standards for carbamate wastes for one year, until August 26, 1998. No Board action is required, since the emergency extension has already elapsed.

62 Fed. Reg. 64503 (December 5, 1997)

USEPA amended the land disposal restrictions to clarify that a treatment variance is available whenever treatment by the prescribed methods or to the required contaminant levels is not appropriate, whether or not treatment is possible. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

62 Fed. Reg. 64656 (December 8, 1997)

USEPA adopted clarifying and corrective amendments to its organic material emissions regulations applicable to tanks, containers, and surface impoundments used in the management of hazardous waste. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

Docket R99-2: January 1, 1998, through June 30, 1998, RCRA Subtitle C
Amendments

USEPA amended its RCRA Subtitle C regulations six more times of interest to the Board during the six-month time period of docket R99-2. The federal actions during this period of January 1, 1998, through June 30, 1998, are summarized as follows, along with a description of the Board action they require, if any:

63 Fed. Reg. 18503 (April 15, 1998)

USEPA adopted air, water, and land environmental standards for the pulp and paper industry sector. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

63 Fed. Reg. 24595 (May 4, 1998)

USEPA adopted waste listings and land disposal restrictions relating to wastes from organobromine chemicals production. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

63 Fed. Reg. 24963 (May 6, 1998)

USEPA adopted a direct final rule that was effective July 6, 1998. The rule amends the used oil regulations to clarify the regulatory status of used oil mixtures containing PCB-contaminated oils. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

63 Fed. Reg. 28555 (May 26, 1998)

USEPA adopted "Phase IV" land disposal restrictions. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

63 Fed. Reg. 33781 (June 19, 1998)

USEPA partially adopted the hazardous waste combustion rules. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

63 Fed. Reg. 35147 (June 29, 1998)

USEPA adopted technical amendments to the May 4, 1998, organobromine waste rules. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

Docket R99-7: January 1, 1998, through June 30, 1998, UIC Amendments

USEPA amended its UIC rules three times of interest to the Board during the six-month time period of docket R99-7. Each of these sets of amendments are included in a larger rulemaking that also amends the federal RCRA Subtitle C regulations. The federal UIC actions during this period of January 1, 1998, through June 30, 1998, are summarized as follows, along with a description of the Board action they require, if any:

63 Fed. Reg. 24595 (May 4, 1998)

USEPA adopted waste listings and land disposal restrictions relating to wastes from organobromine chemicals production. See the description of Board action under the RCRA Subtitle C docket R99-2 listing.

63 Fed. Reg. 28555 (May 26, 1998)

USEPA adopted "Phase IV" land disposal restrictions. See the description of Board action under the RCRA Subtitle C docket R99-2 listing.

63 Fed. Reg. 35147 (June 29, 1998)

USEPA adopted technical amendments to the May 4, 1998, organobromine waste rules. See the description of Board action under the RCRA Subtitle C docket R99-2 listing.

Later RCRA Subtitle C (Hazardous Waste) and UIC Amendments of Interest

The Board engages in ongoing monitoring of federal actions. We have observed that certain actions since July 1, 1998, that are outside the scope of the nominal timeframes of dockets R98-21, R99-2, and R99-7 directly affect the amendments involved in those dockets. Thus, the Board has observed that USEPA amended its RCRA Subtitle C regulations additional times after July 1, 1998 in ways that directly affect the amendments involved in this consolidated proceeding. The federal actions during this period of July 1, 1998, to date are summarized as follows, along with a description of the Board action they require, if any:

63 Fed. Reg. 42580 (August 10, 1998)

USEPA adopted corrections to the May 4, 1998, organobromine production waste rules, the May 26, 1998, Phase IV land disposal restrictions, and the June 29, 1998, organobromine waste technical amendments. The corrections affected both the RCRA Subtitle C and UIC aspects of the May 4 and 26 and June 29, 1998, actions. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

63 Fed. Reg. 46331 (August 31, 1998)

USEPA adopted technical amendments to the May 4, 1998, organobromine waste rules. The technical amendments affected the RCRA Subtitle C aspects of the May 4, 1998, action. The Board will need to adopt corresponding amendments to the Illinois hazardous waste regulations.

Unrelated Federal Actions Having an Ancillary Impact on the Illinois RCRA
Subtitle C and UIC Regulations

In addition to the amendments to the federal UIC and RCRA Subtitle C regulations, other, unrelated federal amendments might have an effect on the corresponding Illinois rules. Most notably, 35 Ill. Adm. Code 720.111 includes several incorporations of federal regulations by reference, and USEPA has amended 40 C.F.R. 136, which is included among the incorporated references. The federal amendments to 40 C.F.R. 136 are as follows, along with a description of the Board action they require, if any:

62 Fed. Reg. 48394 (September 15, 1997)

USEPA amended its analytical method Method 1613, as codified at 40 C.F.R. 136, appendix A. This method is used to test aqueous samples for dibenzo-p-dioxins and dibenzofurans. The Illinois hazardous waste rules incorporate 40 C.F.R. 136 by reference at 35 Ill. Adm. Code 720.111. The Board should update the incorporation by reference to reflect the federal amendments.

63 Fed. Reg. 38756 (July 20, 1998)

USEPA published a correction to 40 C.F.R. 136.3(e), table, as published on July 1, 1997. The Illinois hazardous waste rules incorporate 40 C.F.R. 136 by reference at 35 Ill. Adm. Code 720.111. The Board should update the incorporation by reference to reflect the federal amendments.

63 Fed. Reg. 44146 (August 18, 1998)

USEPA published a correction to 40 C.F.R. 136.3(e), table, as published on July 1, 1997. The Illinois hazardous waste rules incorporate 40 C.F.R. 136 by reference at 35 Ill. Adm. Code 720.111. The Board should update the incorporation by reference to reflect the federal amendments.

63 Fed. Reg. 48124 (September 9, 1998)

USEPA issued an extension of the Phase IV land disposal restriction (LDR) compliance deadline, until November 26, 1998, for certain, limited metal-bearing wastes. The Board should update the incorporation by reference to reflect the federal amendments.

Summary Listing of the Federal Actions Forming the Basis of the Board's
Actions in this Docket

The federal actions that form the basis for Board action in this consolidated docket are the following (in chronological order):

62 Fed. Reg. 48394 (September 15, 1997): Amendment of federal analytical method Method 1613, as codified at 40 C.F.R. 136, appendix A.

62 Fed. Reg. 64503 (December 5, 1997): Clarification of the treatment variance provisions.

62 Fed. Reg. 64656 (December 8, 1997): Amendments to the organic material emissions regulations applicable to tanks, containers, and surface impoundments (the Subpart CC rules).

63 Fed. Reg. 18503 (April 15, 1998): Air, water, and land environmental standards for the pulp and paper industry sector.

63 Fed. Reg. 24595 (May 4, 1998): Organobromine chemicals production waste rules.

63 Fed. Reg. 24963 (May 6, 1998): Clarification of the regulatory status of used oil mixtures containing PCB-contaminated oils.

63 Fed. Reg. 28555 (May 26, 1998): The Phase IV LDRs.

63 Fed. Reg. 33781 (June 19, 1998): Partial adoption of the hazardous waste combustion rules.

63 Fed. Reg. 35147 (June 29, 1998): Technical amendments to the organobromine waste rules.

63 Fed. Reg. 38756 (July 20, 1998): Correction to 40 C.F.R. 136.3(e), table.

63 Fed. Reg. 42580 (August 10, 1998): Corrections to the organobromine production waste rules and the Phase IV LDRs.

63 Fed. Reg. 44146 (August 18, 1998): Correction to 40 C.F.R. 136.3(e), table.

63 Fed. Reg. 46331 (August 31, 1998): Technical amendments to the organobromine waste rules.

63 Fed. Reg. 48124 (September 9, 1998): Extension of the Phase IV LDR compliance deadline for certain, limited metal-bearing wastes.

PUBLIC COMMENTS

The Board will receive public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*. After that time, the Board will immediately consider adoption of the amendments, making any necessary changes made evident through the public comments. The Board will delay filing any adopted rules with the Secretary of State for 30 days after adoption, particularly to allow additional time for USEPA to review the adopted amendments before they are filed and become effective. The complete text of the proposed amendments appears in a separate order adopted this day.

Before adopting a proposal for public comment, the Board received one public comment on the amendments. That comment is as follows:

PC 1 Copy of September 8, 1998, letter from Mark A. Rein, Assistant Vice President—Environmental Affairs, Peoria Disposal Company, to Michael J. McCambridge, Hearing Officer, Pollution Control Board (received September 10, 1998).

In PC 1, Peoria Disposal Company (PDC) requests expedited Board consideration of certain federal amendments. PDC states that economic benefits will result in Illinois if the Board takes prompt action on the federal amendments of May 26, 1998, which are a segment of the R99-2 amendments. PDC urges Board consideration of these R99-2 amendments together with those involved in docket R98-21.

The Board addresses PDC's request in the detailed discussion of consolidation of dockets R99-2 and R98-21 on pages 3 and 4 of this opinion.

DISCUSSION

The federal actions that underlie this proceeding require amendment of the Illinois RCRA Subtitle C and UIC regulations. This discussion briefly focuses on each by subject matter, indicating the specific details of the actions taken by the Board where pertinent. The following discussion begins with a brief explanation of the types of deviations the Board makes from the literal text of federal regulations in adopting identical-in-substance rules. The brief explanation of deviations is followed by the first series of substantive discussions, which consider the amendments and actions undertaken in direct response to the federal actions involved in this proceeding. This first series of discussions is organized by federal subject matter, generally appearing in chronological order of the significant *Federal Register* notices involved. That is followed by the second series of discussions, which considers amendments and actions that are not directly derived from the federal actions involved.

General Revisions and Deviations from the Federal Text

In incorporating the federal rules into the Illinois system, some minimal deviation from the federal text is unavoidable. This deviation arises primarily through differences between the federal and state regulatory structure and systems. Some deviation also arises through errors in and problems with the federal text itself. Sometimes the federal text uses flawed language or lacks consistency and clarity. The Board conforms the federal text to the Illinois rules and regulatory scheme and corrects errors that we see in the text as we engage in these routine update rulemakings.

In addition to the amendments derived from federal amendments, the Board often finds it necessary to alter the text of various passages of the existing rules as provisions are opened for update in response to USEPA actions. This involves correcting deficiencies, clarifying

provisions, and making other changes that are necessary to establish a clear set of rules that closely parallel the corresponding federal requirements within the codification scheme of the Illinois Administrative Code.

The Board updates the citations to the Code of Federal Regulations to the most recent version available. As of the date of this opinion, the most recent version of the Code of Federal Regulations available to the Board is the July 1, 1997 version. Thus, we have updated all citations to the 1997 version, adding references to later amendments using their appropriate *Federal Register* citation, where necessary.

The Board substituted “or” for “/” in most instances where this appeared in the federal base text, using “and” where more appropriate. The Board further used this opportunity to make a number of corrections to punctuation, grammar, and cross-reference format throughout the opened text. We changed “who” to “that” and “he” or “she” to “it,” where the person to which the regulation referred was not necessarily a natural person, or to “he or she,” where a natural person was evident; changed “which” to “that” for restrictive relative clauses; substituted “shall” for “will;” capitalized the section headings and corrected their format where necessary; and corrected punctuation within sentences.

In addition, the federal rules have been edited to establish a uniform usage throughout the Board’s regulations. For example, with respect to “shall,” “will,” and “may” - “shall” is used when the subject of a sentence has a duty to do something. “Must” is used when someone has to do something, but that someone is not the subject of the sentence. “Will” is used when the Board obliges itself to do something. “May” is used when choice of a provision is optional. “Or” is used rather than “and/or,” and denotes “one or both.” “Either . . . or” denotes “one but not both.” “And” denotes “both.”

JCAR has requested that the Board refer to the United States Environmental Protection Agency in the same manner throughout all of our bodies of regulations—*i.e.*, air, water, drinking water, RCRA Subtitle D (municipal solid waste landfill), RCRA Subtitle C (hazardous waste), underground injection control (UIC), etc. The Board has decided to refer to the United States Environmental Protection Agency as “USEPA.” We will continue this conversion in future rulemakings as additional sections otherwise become open to amendment. We will further convert “EPA” from federal text to “USEPA,” where USEPA is clearly intended.

The Board has assembled tables to aid location of those alterations and to briefly outline their intended purpose. The tables set forth the miscellaneous deviations from the federal text and corrections to the pre-amended base text of the rules in detail. The tables are set forth and explained towards the end of this opinion, beginning on page 17. There is no further discussion of most of the deviations and revisions elsewhere in this opinion.

Some alterations, on the other hand, are more significant, and substantive discussion is warranted for those. Those more significant discussions are set forth in the following topical discussions.

Discussions of Particular Federal Actions

Revised CWA Analytical Methods—Section 720.111

USEPA amended the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.* (1996) (CWA), analytical methods on September 15, 1997. The method amended is Method 1613 for the determination of tetra- and octachloro- 2,3,7,8-substituted dibenzo-*p*-dioxins and dibenzofurans by high resolution gas chromatography/high resolution mass spectrometry (HRGC/HRMS). The method is codified in 40 C.F.R. 136. On July 20, 1998, and August 18, 1998, USEPA corrected the text of its part 136 as published in the July 1, 1997 version of the C.F.R.

The Board incorporated 40 C.F.R. 136 by reference in 35 Ill. Adm. Code 720.111. For this reason, the Board will update the incorporation to include the federal amendments updating the 1997 edition.

The Board requests public comment on updating the Section 720.111 incorporation of 40 C.F.R. 136 by reference to include these federal amendments.

Clarification of Availability of LDR Treatability Variances—Section 728.144

USEPA adopted the LDR rules on December 5, 1997, to clarify when a treatability variance is available from an LDR. USEPA amended 40 C.F.R. 268.44 to clarify that a treatability variance is available when it is not practical to achieve the treatment standard or use the prescribed treatment method. USEPA stated that it intended to clarify that a variance is available at times other than when treatment is impossible. Persons interested in the details of the federal action and the rationale behind it should read the notice of final rule in the *Federal Register*, at 62 Fed. Reg. 64504 (December 5, 1997).

To revise the Illinois regulations to incorporate the federal amendments, the Board used the mechanism of an “adjusted standard from a treatment standard.” We believe that this usage is more explicit than our formerly calling it an “adjusted treatment standard.” This revised usage clearly focuses attention on the adjusted standard procedure of 35 Ill. Adm. Code 106. The tables beginning on page 17 indicate the several revisions made in the base text of the regulations and to the verbatim wording of the federal amendments. The Board requests public comment on the treatability variance amendments.

Subpart CC Air Emissions Rules for Tanks, Containers, and Surface Impoundments—Parts 264 and 265

USEPA made a series of clarifying amendments to the rules that govern the emission of organic material from tanks, containers, and surface impoundments that contain hazardous waste. Codified as 40 C.F.R. 264, Subpart CC and 265, Subpart CC, these are called the “Subpart CC” rules. USEPA included corresponding amendments to the air emissions rules

pertaining to process vents, of 40 C.F.R. 264, Subpart AA and 265, Subpart AA, and to equipment leaks, of 40 C.F.R. 264, Subpart BB and 265, Subpart BB. The amendments do not significantly affect the substantive impact of the rules. Persons interested in the details of the federal action and the rationale behind it should read the notice of final rule in the *Federal Register* at 62 Fed. Reg. 64636 (December 8, 1997).

In adopting the rule, the Board did not need to include one of the federal amendments. The sole federal amendment to 40 C.F.R. 270.14(b)(5) was to alter the format of the references to other rules by adding “of this part.” We believe that USEPA actually intended “of this subtitle,” but that is immaterial because this format change is not necessary for the purposes of the *Illinois Administrative Code*. Thus, the Board has not included amendments to corresponding 35 Ill. Adm. Code 703.183(e) in this proceeding.

The tables beginning on page 17 indicate the several revisions made in the base text of the regulations and to the verbatim wording of the federal amendments. The Board requests public comment on the Subpart CC clarifying amendments.

Pulp and Paper Waste Rules—Section 721.104(a)(15)

USEPA adopted a large, integrated set of environmental standards applicable to the pulp and paper production industry. These rules included national emission standards for hazardous air pollutants (NESHAP) under the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.* (1996) (CAA), wastewater effluent and pretreatment standards under the CWA, and a single amendment to the RCRA Subtitle C hazardous waste rules. The hazardous waste amendment is the only item of interest in this proceeding. (The Board will deal with the wastewater pretreatment amendments in the presently-reserved docket In the Matter of: Wastewater Pretreatment Update, R99-5.) The single hazardous waste amendment at 40 C.F.R. 260.4(a)(15) is an exclusion from the definition of solid waste for condensates from overhead gasses from kraft mill steam strippers that are used to comply with the new NESHAP applicable to the industry. Persons interested in the details of the federal action and the rationale behind it should read the notice of final rule in the *Federal Register* at 63 Fed. Reg. 18504 (April 15, 1998).

The Board incorporated the federal amendment into corresponding 35 Ill. Adm. Code 720.104(a)(15) with one minor deviation from the federal text. The tables beginning on page 17 indicate the single revision made in the verbatim wording of the federal amendments. The Board requests public comment on the pulp and paper production amendments.

Organobromine Production Waste Rules—Parts 721 and 728 and Section 738.118

USEPA adopted and subsequently revised and corrected rules that added two new listed hazardous wastes from the production of 2,4,6-tribromophenol, an organobromine chemical product. USEPA added 2,4,6-tribromophenol to the list of hazardous constituents and added land disposal restrictions (LDRs) applicable to the two new wastes. (USEPA also added reportable quantities for 2,4,6-tribromophenol to other regulations applicable under the

Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.* (1996) (CERCLA), and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. §§ 11001 *et seq.* (1996) (EPCRA), but those are of no concern in this proceeding.) Through a series of subsequent corrections and technical amendments to these organobromine waste rules, the three new LDR rules remain intact, but USEPA changed their effective date to November 26, 1998. Persons interested in the details of the federal action and the rationale behind it should read the notice of final rule in the *Federal Register*, at 63 Fed. Reg. 24596 (May 4, 1998). The Board directs attention also to the notice of final rule for the Phase IV LDR amendments, at 63 Fed. Reg. 28556 (May 26, 1998), the notice of technical amendment, at 63 Fed. Reg. 35147 (June 29, 1998), the notice of final rule, correction of effective date, and technical amendments, at 63 Fed. Reg. 42580 (August 10, 1998), and notice of extension of compliance date of final rule at 63 Fed. Reg. 48124 (September 9, 1998).

The Board incorporated the federal amendments into the corresponding Illinois rules with only minor deviations from the federal text. We note that the withdrawal of segments of the May 4, 1998, amendments on August 10, 1998, due to the error noted on June 29, 1998, and by virtue of inclusion of the LDRs in the Phase IV amendments of May 26, 1998, was a bit confusing. It initially appears that the May 4, 1998, treatment standards for K140 and U408 waste and the universal treatment standard for 2,4,6-tribromophenol, as corrected on June 29, 1998, were withdrawn by USEPA on August 10, 1998. However, closer examination reveals that those standards should be a segment of the present amendments by virtue of their inclusion in the May 26, 1998, Phase IV LDR amendments. Thus, the Board included these three LDR standards in this rulemaking. The tables beginning on page 17 indicate the several revisions made in the verbatim wording of the federal amendments.

The Board requests public comment on the organobromine production waste amendments. We specifically request comment on whether our addition of LDR requirements for K140 and U408 is the proper result of the several actions undertaken by USEPA in this matter.

Used Oil Management Clarifications and Corrections—Parts 721 and 739

USEPA adopted a direct final rule concerning used oil management that became effective on July 6, 1998. USEPA did not withdraw it in response to adverse comment before that time. USEPA stated that the amendments eliminated errors and clarified ambiguities in the used oil management rules. The amendments specify when used oil that is contaminated with PCBs may be managed under the used oil management regulations, rather than under the generally-applicable hazardous waste management standards. They clarify that mixtures of used oil and conditionally-exempt small quantity generator (CESQG) waste are subject to the used oil standards. The amendments make a small number of other clarifications and corrections to the rules. Persons interested in the details of the federal action and the rationale behind it should read the notice of direct final rule in the *Federal Register* at 63 Fed. Reg. 24963 (May 6, 1998).

The Board incorporated the federal amendments into the corresponding Illinois rules with only minor deviations from the federal text. The tables beginning on page 17 indicate the several revisions made in the verbatim wording of the federal amendments.

We note that we have altered the references to underground storage tank (UST) corrective action standards of 35 Ill. Adm. Code 731.Subpart F to refer to the federal standards of 40 C.F.R. 280, Subpart F. Although the Illinois standards of 35 Ill. Adm. Code 731.Subpart F are the corrective action standards adopted by the Board that are intended to be identical-in-substance to 40 C.F.R. 280, Subpart F, Section 22.4(d)(3) limits the scope of the corrective action rules that the Board may adopt under Section 22.4(d) of the Act. This could result in disparities between 35 Ill. Adm. Code 731.Subpart F and 40 C.F.R. 280, Subpart F that might render elements of the Illinois RCRA Subtitle C hazardous waste program to become less stringent than the federal requirements. We avoid this by citing the federal UST corrective action requirements.

The Board has also inserted the date that USEPA approved the Illinois used oil management rules, October 4, 1996, for the language, “effective date of the authorized used oil program,” where it formerly appeared in Sections 739.122, 739.145, 739.154, and 739.164 in the rules. We used the date that USEPA approved the Illinois rules, rather than November 22, 1993, when the Board filed them with the Secretary of State and they became effective. We did this because of USEPA’s use of “approved” in corresponding 40 C.F.R. 279.22, 279.45, 279.54, and 279.64. The Board added an explanatory Board note at the appropriate segments of the regulatory text.

The Board requests public comment on the used oil management amendments. We specifically request comment on whether October 4, 1996 is “the effective date of the authorized used oil program.”

Phase IV s—Parts 721, 728, and 738

USEPA adopted an additional segment of the Phase IV land disposal restrictions (LDRs). (USEPA adopted the initial segments of the Phase IV LDRs on May 12, 1997, and the Board adopted those segments in In the Matter of RCRA Subtitle C Update (August 20, 1998), R97-21, In the Matter of UIC Update (August 20, 1998), R98-3, In the Matter of RCRA Subtitle C Update (August 20, 1998), R98-5 (consolidated).) As part of the added Phase IV amendments, USEPA adopted amendments that define which secondary materials are considered wastes that are subject to the LDRs. The recent segment of the Phase IV LDRs adopted by USEPA established treatment standards for metal-bearing and mineral processing wastes. USEPA further amended the universal treatment standards for 12 metal constituents and the treatment standards for all wastes containing those constituents. Among the other miscellaneous amendments included in this federal action are changes in the standards for hazardous waste-contaminated soils and an exclusion from the definition of solid waste for shredded circuit boards in recycling and for certain reused materials in wood preserving operations. Persons interested in the details of the federal action and the rationale behind it should read the notice of final rule in the *Federal Register* at 63 Fed. Reg. 28556 (May 26,

1998). The Board further directs attention to the notice of correction at 63 Fed. Reg. 31266 (June 8, 1998), the notice of final rule at 46332 (August 31, 1998), and extension of compliance date of final rule at 63 Fed. Reg. 48124 (September 9, 1998), which amended the Phase IV LDR amendments.

The Board incorporated the federal amendments into the corresponding Illinois rules with only minor deviations from the federal text. The tables beginning on page 17 indicate the several revisions made in the verbatim wording of the federal amendments.

In one deviation, the Board added language at Section 721.104(a)(9)(C)(v) that reflects certain requirements unique to the Illinois regulatory scheme. The Board is requiring the Agency to deny reinstatement of the spent wood preserving solution and wood preserving wastewaters exclusion in writing, as required under Section 39 of the Act, since the Agency's review of an application for reinstatement is in the nature of a permit decision. For the same reasons, we also explicitly recite the applicant's right to appeal the Agency's determination before the Board pursuant to Section 40 of the Act. These requirements are inherent in the Illinois statutory requirements, and the Board believes that explicitly including them in the rules avoids confusion. This is the approach we took under similar circumstances in adopting the prior docket in In the Matter of RCRA Subtitle C Update (August 20, 1998), R97-21, In the Matter of UIC Update (August 20, 1998), R98-3, and In the Matter of RCRA Subtitle C Update (August 20, 1998), R98-5 (consolidated).

In Section 721.104(a)(16)(D), which relates to the requirements for the exclusion of secondary materials from solid minerals processing, the Board expressly referenced allowing the required activities by permit. Again, this is the Agency's only authority under the Act to allow activities of the nature contemplated. We further added a Board note that references the public notice provisions of the RCRA permitting rules in Part 703, since this is the only model in the regulations for providing an opportunity for public notice and comment.

The Board requests public comment on the Phase IV LDR amendments. We specifically request comment on our addition of express references to the requirements for Agency decisions on exemptions and to public notice and comment requirements.

Hazardous Waste Combustion Rules—Sections 703.155, 703.280, 703.Appendix A, 721.104, 721.138, and 721.Table E

USEPA adopted an integrated set of rules applicable to hazardous waste combusters. The NESHAP aspects of these rules, adopted by USEPA under the authority of the CAA, are not of immediate interest in this proceeding; only those rules adopted under authority of RCRA Subtitle C are involved. USEPA explained that these amendments finalize only segments of an earlier, broader proposal. Included are a conditioned exclusion of certain hazardous waste fuels that are comparable to fossil fuels from the definition of "solid waste." Also included are amendments that modify the permit procedure to facilitate facility modification to add or implement air pollution controls. Persons interested in the details of the

federal action and the rationale behind it should read the notice of final rule in the *Federal Register*, at 63 Fed. Reg. 33782 (June 19, 1998).

The Board incorporated the federal amendments into the corresponding Illinois rules with only minor deviations from the federal text. The tables beginning on page 17 indicate the several revisions made in the verbatim wording of the federal amendments. Significant, and warranting discussion, is that the amended Illinois regulatory text now refers to certain federal requirements in the amendments without incorporating those requirements by reference.

When adopting identical-in-substance regulations, the Board is often confronted with references to federal requirements. When there is a comparable provision in the Illinois rules, the Board can sometimes substitute the parallel Illinois requirement for the federal one to which USEPA refers. When substitution is not appropriate, the Board must weigh whether to incorporate the federal requirement by reference. Generally, the Board will incorporate the federal requirement by reference when the text that refers to it seems to draw some requirements into the hazardous waste regulations from the requirements referenced. In this instance, USEPA includes references to CAA requirements in the hazardous waste rules. The federal rules at 40 C.F.R. 261.38(c)(2) and (c)(2)(iii) limit the applicability of the comparable/syngas exclusion to units subject to “applicable CAA MACT standards.” The Board does not believe that this actually imposes the CAA maximum achievable control technology (MACT) requirements, so we did not incorporate the CAA MACT standards by reference at corresponding Section 721.138(c)(2) and (c)(2)(C). 40 C.F.R. 270.42(j) requires “compliance with 40 C.F.R. 63.1211 before a permit modification can be requested.” The Board does not believe that this reference actually incorporates that MACT requirement into the hazardous waste rules, so we similarly did not incorporate 40 C.F.R. 270.42(j) by reference in corresponding Section 703.280(j).

The Board requests public comment on the hazardous waste combustion amendments. We specifically request comment on our decision not to incorporate the federal MACT requirements reference.

Discussions of Miscellaneous Other Amendments not Federally Driven

The tables beginning on the next page of this opinion list numerous corrections and amendments that are not based on current federal amendments. Those tables indicate the amendments made with a brief explanation. Most of those amendments do not need further explanation, but the Board believes that there is benefit to discussion of a small number of them. The Board invites public comment on any of the issues raised by these actions.

Extension of the Subpart CC Compliance Deadline—Section 725.982(d)

Under Section 725.982(d), as it is currently written, the Agency may extend the deadline for compliance with the Subpart CC rules for specific facilities under certain circumstances. The extensions are available where special circumstances exist that will delay compliance and the owner or operator has made all reasonable efforts to comply by the

deadline. As originally adopted, in In the Matter of: RCRA Subtitle C Update (June 1 and 15, 1995), R95-6, the Board charged the Agency with the task of evaluating and granting requests for extensions of the deadline. The Board now questions whether this was a proper delegation of authority under the Act.

The grant of an extension of the deadline looks like the type of decision customarily evaluated and made using the adjusted standard procedure under Section 28.1 of the Act. For this reason, the Board has proposed an amendment to Section 725.982(d) that provides that the Board will grant an adjusted standard from the implementation date under Section 28.1 of the Act and 35 Ill. Adm. Code 106 when the facility owner or operator has made the necessary demonstrations.

Reformatted Equations and Variables—Section 725.982

Various segments of the hazardous waste regulations use mathematical formulae to express requirements. Those segments include definition of the variables in those equations. Some of the equations and variables in the base text of Section 725.982 appear in italics. Under the Illinois Administrative Code codification requirements, at 1 Ill. Adm. Code 100.380(a), the use of italics is reserved for segments of statutory language that appear in the regulations. The Board is using this opportunity to correct this in the format of all affected segments of Section 725.982.

In the following tables, the Board indicates the location and nature of the kinds of deviations from the literal text of the federal amendments involved in this proceeding. The first table includes deviations made in this Proposal for Public Comment from the verbatim text of the federal amendments that are driving this docket. The second table indicates corrections and clarifications that the Board had discovered and made in the base text involved this proposal. The amendments listed in this second table are not directly derived from the current federal amendments. Some of the entries in these tables are discussed further in appropriate segments of the general discussions beginning on 9 of this opinion.

Deviations from the Text of the Federal Amendments

Illinois Section	40 C.F.R. Section	Revision(s)
703.155(b)(8)	270.72(b)(8)	Changed “standards under 40 CFR part 63, Subpart EEE” to “the federal Clean Air Act (CAA) Maximum Achievable Control Technology (MACT) emissions standards of 40 CFR 63, Subpart EEE”
703.280(j)	270.42(j)	Added “federal;” corrected C.F.R. cite format; added “paragraph”
703.280(j)(1)	270.42(j)(1)	Added “federal;” used lower case “notification of intent to comply”

703.280(j)(2)	270.42(j)(2)	Added “act to either;” hyphenated “90-day;” added requirement for notification in writing
703. Appendix A paragraph L(9)	270.42, Appendix I, paragraph L(9)	Used lower case “changes needed to meet standards;” added “federal;” corrected “270.42(i)” to “270.42(j);” added ending punctuation
721. table of contents	261 table of contents	Added conjunction “or” in Section 721.138 heading
721.103(a)(2)(A)	261.3(a)(2)(i)	Substituted “the mixture” for “it;” used lower case “toxicity characteristic”
721.104(a)(9)(A)	261.4(a)(9)(i)	Deleted ending conjunction “and”
721.104(a)(9)(B)	261.4(a)(9)(ii)	Changed ending punctuation to a semicolon; added ending conjunction “and”
721.104(a)(9)(C)(iii)	261.4(a)(9)(iii)(C)	Used “or” in place of “and/or”
721.104(a)(9)(C)(iv)	261.4(a)(9)(iii)(D)	Used “or” in place of “and/or”
721.104(a)(9)(C)(v)	261.4(a)(9)(iii)(E)	Moved prepositional phrase “to the Agency;” substituted “three” for digit; added “in writing;” changed “upon finding” to “if it finds;” added sentences relating to an Agency statement of denial and an appeal to the Board
721.104(a)(15)	261.4(a)(15)	Added “federal Clean Air Act regulation”
721.104(a)(16)	261.4(a)(16)	Added a comma before the last element of a series
721.104(a)(16)(A)	261.4(a)(16)(i)	Added a comma before the last element of a series
721.104(a)(16)(C)	261.4(a)(16)(iii)	Changed “meeting” to “that meet;” changed “except” to “Except that;” added comma before “provided;” changed “provided” to “provided that;” changed to singular “a tank or container contains;” used “that” in place of “which;” changed “tanks, containers and buildings” to “a tank, container, or building”
721.104(a)(16)(D)	261.4(a)(16)(iv)	Changed “may make . . . comment” to “shall allow by permit;” moved adjective “only;” added conditional language “if the facility . . . following: the;” compounded three sentences into a series, separating them by semicolons and adding the conjunction “and;” added the definite article “the” (twice); separated final element in series with a comma (twice); changed “must provide” to “provide”

721.104(a)(16)(D)(i)	261.4(a)(16)(iv)(A)	Used “shall” in place of “must;” changed “if” to “whether;” combined sentences and changed “factors . . . are” to “must include the following;” changed comma separating elements of series to a semicolon
721.104(a)(16)(D)(ii)	261.4(a)(16)(iv)(B)	Added “they must” (five times); changed “capable” to “be capable;” changed commas separating elements of series to semicolons (four times)
721.104(a)(16)(D)(iii)	261.4(a)(16)(iv)(C)	Changed “must” to “shall;” added Board note indicating location of notice requirements
721.104(a)(16)(E)	261.4(a)(16)(v)	Changed semicolons separating elements of series to commas (twice)
721.104(a)(17)	261.4(a)(16)	Changed subsection number to cure numbering conflict; changed “comparable/-syngas” to “comparable or syngas”
721.104(b)(7)(C)	261.4(b)(7)(iii)	Added “following conditions are fulfilled”
721.104(b)(7)(C)(i)	261.4(b)(7)(iii)(A)	Added “the owner or operator”
721.104(b)(7)(C)(ii)	261.4(b)(7)(iii)(B)	Added “the owner or operator”
721.138	261.38	Changed “comparable/syngas” to “comparable or syngas” (twice)
721.138(a)(2)	261.38(a)(2)	Added definite article “the;” added comma to offset opening prepositional phrase, added “constituent;” moved parenthetical “where . . . specification” and placed it in parentheses; changed parenthetical “(see Table 1)” to “set forth . . . this Section”
721.138(b)	261.38(b)	Substituted em dash with spaces; added “fulfill the following requirements”
721.138(b)(1)	261.38(b)(1)	Added “it must”
721.138(b)(2)	261.38(b)(2)	Added “it must”
721.138(b)(3)	261.38(b)(3)	Added “it must”
721.138(b)(4)	261.38(b)(4)	Added “it must”
721.138(b)(5)	261.38(b)(5)	Added “it must”
721.138(c)	261.38(c)	Substituted em dash with spaces
721.138(c)(1)	261.38(c)(1)	Substituted em dash with spaces; changed “comparable/syngas” to “comparable or syngas” (three times); used “that” in place of “who”
721.138(c)(1)(A)	261.38(c)(1)(i)	Used “notice to the Agency” in place of applicability statement
721.138(c)(1)(A)(ii)	261.38(c)(1)(i)(B)	Changed “comparable/syngas” to “comparable or syngas” (twice)

721.138(c)(1)(A)(iii)	261.38(c)(1)(i)(C)	Changed “comparable/syngas” to “comparable or syngas;” removed “following;” added “listed in subsection (c)(1)(C) of this Section;” moved subsections (c)(1)(i)(C)(1) through (c)(1)(i)(C)(4)
721.138(c)(1)(B)	261.38(c)(1)(ii)	Substituted em dash with spaces; changed “comparable/syngas” to “comparable or syngas” (twice)
721.138(c)(1)(B)(i)	261.38(c)(1)(ii)(A)	Added definite article “the;” used “USEPA identification number” in place of “RCRA ID number”
721.138(c)(1)(B)(ii)	261.38(c)(1)(ii)(B)	Added definite article “the;” changed “comparable/syngas” to “comparable or syngas”
721.138(c)(1)(B)(iii)	261.38(c)(1)(ii)(C)	Changed “comparable/syngas” to “comparable or syngas”
721.138(c)(1)(B)(v)	261.38(c)(1)(ii)(D)	Added comma, converting prepositional phrase into a parenthetical; used impersonal pronoun “which” in place of “whom”
721.138(c)(1)(C)	261.38(c)(1)(i)(C)	Moved the text to comply with codification requirements; added subsection (c)(1)(A)(iii) text as a heading; added explanatory Board note
721.138(c)(1)(C)(i)	261.38(c)(1)(i)(C)(1)	Changed location of text and subsection indent level; changed “RCRA ID number” to defined term “USEPA identification number;” used “or” in place of virgule
721.138(c)(1)(C)(ii)	261.38(c)(1)(i)(C)(2)	Changed location of text and subsection indent level; changed “EPA Hazardous Waste Codes” to “USEPA hazardous waste code(s)”
721.138(c)(1)(C)(iii)	261.38(c)(1)(i)(C)(3)	Changed location of text and subsection indent level; replaced parenthetical in commas with restrictive relative clause offset by “that;” changed “that” to “which” for second restrictive relative clause; changed “comparable/syngas” to “comparable or syngas”
721.138(c)(1)(C)(iv)	261.38(c)(1)(i)(C)(4)	Changed location of text and subsection indent level; replaced “is” with a comma, converting text to a parenthetical; replaced “his” with “its”

721.138(c)(1)(C)(iv) certification statement	261.38(c)(1)(i)(C)(4)	Changed “required at” to “required by;” corrected erroneous reference to “40 CFR 261.28(c)(10)” to read “35 Ill. Adm. Code 721.138(c)(10);” changed “comparable/ syngas” to “comparable or syngas”
721.138(c)(2)	261.38(c)(2)	Substituted em dash with spaces; changed “comparable/syngas” to “comparable or syngas;” used “that meet” in place of “meeting;” changed “Federal/State/local” to “federal, state, and local;” changed “CAA MACT requirements” to “federal Clean Air Act (CAA) maximum achievable control technology (MACT) requirements”
721.138(c)(2)(A)	261.38(c)(2)(i)	Added comma to offset parenthetical
721.138(c)(3)	261.38(c)(3)	Substituted em dash with spaces; changed “shall” to “must;” added “fulfill the following requirements”
721.138(c)(3)(A)	261.38(c)(3)(i)	Added comma and “the waste must” to form complete sentence
721.138(c)(3)(B)	261.38(c)(3)(ii)	Added “the waste must” to form complete sentence; removed comma dividing two- element series
721.138(c)(3)(C)	261.38(c)(3)(iii)	Added “the waste must” to form complete sentence; removed comma dividing two- element series
721.138(c)(4)	261.38(c)(4)	Deleted em dash
721.138(c)(4)(A)	261.38(c)(4)(i)	Added “fulfills the following requirements”
721.138(c)(4)(A)(i)	261.38(c)(4)(i)(A)	Added “the treatment”
721.138(c)(4)(A)(ii)	261.38(c)(4)(i)(B)	Added “the treatment;” removed comma dividing two-element series
721.138(c)(4)(A)(iii)	261.38(c)(4)(i)(C)	Added “the treatment”
721.138(c)(5)(A)	261.38(c)(5)(i)	Added “fulfills the following requirements”
721.138(c)(5)(A)(i)	261.38(c)(5)(i)(A)	Added “the processing”
721.138(c)(5)(A)(ii)	261.38(c)(5)(i)(B)	Added “the processing;” removed comma dividing two-element series
721.138(c)(5)(A)(iii)	261.38(c)(5)(i)(C)	Added “the processing”
721.138(c)(6)	261.38(c)(6)	Substituted em dash with spaces
721.138(c)(7)	261.38(c)(7)	Changed “comparable/syngas” to “comparable or syngas”
721.138(c)(7)(A)	261.38(c)(7)(i)	Added “the following”
721.138(c)(7)(B)	261.38(c)(7)(ii)	Changed “shall” to “must”
721.138(c)(8)(B)	261.38(c)(8)(ii)	Changed “comparable/syngas” to “comparable or syngas” (twice)

721.138(c)(8)(C)	261.38(c)(8)(iii)	Changed “comparable/syngas” to “comparable or syngas;” added “the following”
721.138(c)(8)(C)(i)	261.38(c)(8)(iii)(A)	Added “that;” used “percent” in place of “%”
721.138(c)(8)(C)(ii)	261.38(c)(8)(iii)(B)	Added “that;” used “percent” in place of “%”
721.138(c)(8)(D)	261.38(c)(8)(iv)	Used “that” in place of “who”
721.138(c)(8)(G)	261.38(c)(8)(vii)	Changed “shall” to “must”
721.138(c)(8)(H)	261.38(c)(8)(viii)	Added “undertake the following actions”
721.138(c)(8)(H)(ii)	261.38(c)(8)(viii)(B)	Changed “comparable/syngas” to “comparable or syngas”
721.138(c)(8)(I)	261.38(c)(8)(ix)	Changed “comparable/syngas” to “comparable or syngas”
721.138(c)(9)	261.38(c)(9)	Changed “comparable/syngas” to “comparable or syngas”
721.138(c)(10)(A)(i)	261.38(c)(10)(i)(A)	Used “or” in place of virgule; used “identification” in place of “ID”
721.138(c)(10)(A)(ii)	261.38(c)(10)(i)(B)	Substituted “USEPA hazardous waste codes” in place of “EPA Hazardous Waste Codes”
721.138(c)(10)(H)(ii)	261.38(c)(10)(viii)(B)	Used “that” in place of “who”
721.138(c)(10)(I)	261.38(c)(10)(ix)	Changed “comparable/syngas” to “comparable or syngas;” changed “must” to “shall”
721.138(c)(10)(I)(i)	261.38(c)(10)(ix)(A)	Changed “comparable/syngas” to “comparable or syngas”
721.138(c)(10)(I)(ii)	261.38(c)(10)(ix)(B)	Changed “comparable/syngas” to “comparable or syngas”
721.138(c)(10)(I)(iv)	261.38(c)(10)(ix)(D)	Changed “comparable/syngas” to “comparable or syngas” (twice)
721.138(c)(11)	261.38(c)(11)	Changed “must” to “shall”
721.138(c)(12)	261.38(c)(12)	Changed “comparable/syngas” to “comparable or syngas;” used “that” in place of “who;” added “that includes the following”
721.138(c)(12)(A)	261.38(c)(12)(i)	Added “A certification;” changed “comparable/syngas” to “comparable or syngas”
721.138(c)(12)(B)	261.38(c)(12)(ii)	Added “Identification of;” changed “comparable/syngas” to “comparable or syngas”

721.138(c)(12)(C)	261.38(c)(12)(iii)	Added “A certification;” changed “comparable/syngas” to “comparable or syngas”
721.138(d)	261.38(b)(5) table	Moved table to added subsection; used lower case for federal title; added colon as ending punctuation; corrected spelling of “sulfonated” in text; corrected spelling of “trichlorotrimonomethane” in text; used “USEPA” in place of “EPA” in footnote; added “stated that it” in footnote
724.930(b)(3)	264.1030(b)(3)	Added pronoun “which” for second restrictive relative clause
724.930(c)	264.1030(c)	Changed “which” to “that;” substituted “35 Ill. Adm. Code 702, 703, and 705” for “RCRA section 3005;” substituted “reissued in accordance with . . . 40 CFR 124.15 or reviewed in accordance with . . . 40 CFR 270.50(d)” to “reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705”
724.930(d)	264.1030(d)	Added explanatory language at subsection marked “reserved”
724.930(e)	264.1030(e)	Changed “which” to “that;” added “federal;” changed “shall” to “must”
724.933(a)(2)	264.1033(a)(2)	Added subsection heading
724.933(a)(2)(B)	264.1033(a)(2)(ii)	Changed “which” to “that”
724.933(a)(2)(C)	264.1033(a)(2)(iii)	Used “regulatory amendment” in place of “EPA regulatory amendment;” changed “amendment’s effective date” to “effective date of the amendment”
724.933(a)(2)(D)	264.1033(a)(2)(iv)	Used singular “an owner or operator of a facility or unit that becomes;” added “the facility or unit”
724.950(b)(3)	264.1050(b)(3)	Added pronoun “which”
724.950(c)	264.1050(c)	Changed “which” to “that;” substituted “35 Ill. Adm. Code 702, 703, and 705” for “RCRA section 3005;” substituted “reissued in accordance with . . . 40 CFR 124.15 or reviewed in accordance with . . . 40 CFR 270.50(d)” to “reissued, renewed, or modified in accordance with the requirements of 35 Ill. Adm. Code 703 and 705”

724.950(f)	264.1050(f)	Omitted comma between “defined” and “as”
724.960(b)	264.1060(b)	Added subsection heading
724.960(b)(1)	264.1060(b)(1)	Changed “which” to “that;” changed “must” to “shall”
724.960(b)(2)	264.1060(b)(2)	Added pronoun “which;” added “the unit”
724.960(b)(3)	264.1060(b)(3)	Used “regulatory amendment” in place of “EPA regulatory amendment;” changed “amendment’s effective date” to “effective date of the amendment;” corrected “award or contracts” to “award of contracts”
724.960(b)(4)	264.1060(b)(4)	Used singular “an owner or operator of a facility or unit that becomes;” changed “must” to “shall;” added “the facility or unit”
724.962(b)(2)	264.1062(b)(2)	Added “the owner or operator may”
724.962(b)(3)	264.1062(b)(3)	Added “the owner or operator may”
724.982(c)(2)(I)(i)	264.1082(c)(2)(ix)(A)	Omitted unnecessary comma
724.982(c)(2)(I)(ii)	264.1082(c)(2)(ix)(B)	Used parentheses in place of brackets; used scientific abbreviation “°C”
724.984(c)(2)(C)	264.1084(b)(2)(iii)	Added “either of the following must be true of;” deleted unnecessary comma; added “of;” deleted “shall be either”
724.984(c)(2)(C)(i)	264.1084(b)(2)(iii)(A)	Added “the opening or manifold system is”
724.984(c)(2)(C)(ii)	264.1084(b)(2)(iii)(B)	Added “the opening or manifold system is;” moved federal paragraphs (b)(2)(iii)(B)(1) and (b)(2)(iii)(B)(2) to subsection (b)(2)(iii)(E)
724.984(c)(2)(E)	264.1084(b)(2)(iii)(B)	Added subsection as header to subsections moved to comply with codification requirements
724.984(c)(2)(E)(i)	264.1084(b)(2)(iii)(B)(1)	Moved subsection to comply with codification requirements; changed ending punctuation to a semicolon and added conjunction “and”
724.984(c)(2)(E)(ii)	264.1084(b)(2)(iii)(B)(2)	Moved subsection to comply with codification requirements; added explanatory Board note
724.985(d)(1)(C)	264.1085(d)(1)(iii)	Removed commas offsetting prepositional phrase; added pronoun “which”
724.985(e)(2)	264.1085(e)(2)	Changed “either” to “any”

724.986(c)(4)(A)	264.1086(c)(4)(i)	Changed “shall” to “must;” changed “that” to “on which;” added “when;” changed “for purposes” to “for the purposes;” changed “EPA” to “USEPA;” changed reference to “subpart E of this part, at 40 CFR 264.71” to “Section 724.171”
724.986(d)(2)	264.1086(d)(2)	Retained lower case “a” after colon
724.986(d)(4)(A)	264.1086(d)(4)(i)	Changed “shall” to “must;” changed “that” to “on which;” added “when;” changed “for purposes” to “for the purposes;” changed “EPA” to “USEPA;” changed reference to “subpart E of this part, at 40 CFR 264.71” to “Section 724.171”
724.986(g)	264.1086(g)	Changed “shall” to “must”
724.989(a)	264.1089(a)	Added definite article “the”
724.989(f)(1)	264.1089(f)(1)	Added definite article “the”
724.989(j)(1)	264.1089(j)(1)	Added definite article “the;” added “federal”
724.989(j)(2)	264.1089(j)(2)	Added indefinite article “an;” added “federal”
725.930(b)(3)	265.1030(b)(3)	Added pronoun “which” for second restrictive relative clause
725.930(d)	265.1030(d)	Changed “which” to “that;” added “federal;” changed “shall” to “must”
725.933(a)(2)	265.1033(a)(2)	Added subsection heading
725.933(a)(2)(B)	265.1033(a)(2)(ii)	Changed “which” to “that”
725.933(a)(2)(C)	265.1033(a)(2)(iii)	Used “regulatory amendment” in place of “EPA regulatory amendment;” changed “amendment’s effective date” to “effective date of the amendment”
725.933(a)(2)(D)	265.1033(a)(2)(iv)	Used singular “an owner or operator of a facility or unit that becomes;” added “the facility or unit”
725.950(b)(3)	265.1050(b)(3)	Added pronoun “which”
725.950(e)	265.1050(f)	Omitted comma between “defined” and “as”
725.960(b)	265.1060(b)	Added subsection heading
725.960(b)(1)	265.1060(b)(1)	Changed “which” to “that;” corrected “can not” to “cannot;” changed “must” to “shall”
725.960(b)(2)	265.1060(b)(2)	Changed to singular “any unit that begins . . . is;” added pronoun “which;” added “the unit”

725.960(b)(3)	265.1060(b)(3)	Used “regulatory amendment” in place of “EPA regulatory amendment;” changed “amendment’s effective date” to “effective date of the amendment;” corrected “award or contracts” to “award of contracts”
725.960(b)(4)	265.1060(b)(4)	Used singular “an owner or operator of a facility or unit that becomes;” changed “must” to “shall;” added “the facility or unit”
725.962(b)(2)	265.1062(b)(2)	Added “the owner or operator may”
725.962(b)(3)	265.1062(b)(3)	Added “the owner or operator may”
725.982(a)(2)(B)	265.1082(a)(2)(ii)	Added “the dates of” (three times)
725.982(b)(1)	265.1082(b)(1)	Omitted unnecessary comma after “Subpart”
725.982(b)(2)	265.1082(b)(2)	Omitted unnecessary comma after “operation;” Added definite article “the” before “exemption;” added “undertake the following actions”
725.982(b)(2)(A)	265.1082(b)(2)(i)	Omitted unnecessary comma after “unit”
725.982(c)	265.1082(c)	Used singular “an owner or operator of a facility or unit that becomes;” changed “must” to “shall;” added “the owner or operator;” changed “must” to “shall;” added “the requirements of;” added “to the owner or operator of such a facility”
725.983(c)(2)(I)(i)	265.1083(c)(2)(ix)(A)	Omitted unnecessary comma
725.983(c)(2)(I)(ii)	265.1083(c)(2)(ix)(B)	Used parentheses in place of brackets; used scientific abbreviation “° C”
725.984(a)(3)(D)(ii)	265.984(a)(3)(iv)(B)	Added “determined according to subsection (a)(3)(G) of this Section” to move subsections to comply with codification requirements
725.984(a)(3)(E)	265.984(a)(3)(v)	Changed “will” to “must”
725.984(a)(3)(F)	265.984(a)(3)(v)	Moved to accommodate added subsection (a)(3)(E); corrected designation in Board note
725.984(a)(3)(G)	265.984(a)(3)(vi)(B)	Added subsection to move text to comply with codification requirements; added explanatory Board note
725.984(a)(3)(G)(i)	265.984(a)(3)(vi)(B)(1)	Moved text to comply with codification requirements; added incorporation language; added “the VO concentration must be considered to be”
725.984(a)(3)(G)(ii)	265.984(a)(3)(vi)(B)(2)	Moved text to comply with codification requirements; added “the VO concentration must be considered to be;” used parentheses in place of brackets; used scientific abbreviation “° C”

725.984(b)(3)(C)	265.984(b)(3)(iii)	Omitted unnecessary comma after “(c)(2)(F);” corrected citation to “(b)(3)(C)-(vii);”
725.985(c)(2)(C)	264.1085(b)(2)(iii)	Added “either of the following must be true of;” deleted unnecessary comma; added “of;” deleted “shall be either”
725.985(c)(2)(C)(i)	265.1085(b)(2)(iii)(A)	Added “the opening or manifold system is”
725.985(c)(2)(C)(ii)	265.1085(b)(2)(iii)(B)	Added “the opening or manifold system is;” moved federal paragraphs (b)(2)(iii)(B)(1) and (b)(2)(iii)(B)(2) to subsection (b)(2)(iii)(E)
725.985(c)(2)(E)	265.1085(b)(2)(iii)(B)	Added subsection as header to subsections moved to comply with codification requirements
725.985(c)(2)(E)(i)	265.1085(b)(2)(iii)(B)(1)	Moved subsection to comply with codification requirements; added “when” after “periods;” changed ending punctuation to a semicolon and added conjunction “and”
725.985(c)(2)(E)(ii)	265.1085(b)(2)(iii)(B)(2)	Moved subsection to comply with codification requirements; added explanatory Board note
725.986(e)(2)	265.1086(e)(2)	Changed “either” to “any”
725.987(c)(4)(A)	265.1087(c)(4)(i)	Added “it;” changed “shall” to “must;” changed “that” to “on which;” added “when;” changed “for purposes” to “for the purposes;” changed “EPA” to “USEPA;” changed reference to “subpart E of this part, at 40 CFR 265.71” to “Section 725.171”
725.987(d)(4)(A)	265.1087(d)(4)(i)	Changed “shall” to “must;” changed “that” to “on which;” added “when;” changed “for purposes” to “for the purposes;” changed “EPA” to “USEPA;” changed reference to “subpart E of this part, at 40 CFR 264.71” to “Section 724.171”
725.987(g)	265.1087(g)	Changed “shall” to “must”
725.990(a)	265.1090(a)	Added definite article “the”
725.990(f)(1)	265.1090(f)(1)	Added definite article “the”
725.990(j)(1)	265.1090(j)(1)	Added definite article “the;” added “federal”
725.990(j)(2)	265.1090(j)(2)	Added indefinite article “an;” added “federal”
725. Appendix F “bromoxynil”	265, Appendix VI	Added chemical name “(3,5-Dibromo-4-hydroxybenzotrile)”

725. Appendix F “dichlorvos”	265, Appendix VI	Added hyphens to CAS number
725. Appendix F “diethyl(4-methyl- umbelliferyl)thiono- phosphate”	265, Appendix VI	Omitted spaces from chemical name
725. Appendix F “diethylphosphoro- thioate”	265, Appendix VI	Omitted spaces from chemical name
728. Table of Contents	268 Table of Contents	Capitalized Sections 728.133, 728.134, and 728.149 headings
728.102 “soil”	268.2(k)	Placed quotation marks on defined term; added comma to offset parenthetical “as . . . Service;” added comma before last element of series “solids;” used “that” in place of “which” for restrictive relative clause; added “which” for subsequent restrictive relative clause
728.107(a)(1)	268.7(a)(1)	Retained “determines” in place of “would normally determine;” deleted unnecessary comma after “constituents;” changed “waste’s extract” to “waste extract;” omitted commas from “and . . . wastes;” changed “shall” to “must;” omitted unnecessary comma between “waste” and “that”
728.107(a)(2)	268.7(a)(2)	Deleted colon; moved prepositional phrase “with . . . facility;” added “the generator shall” and “of the one-time notice” to create independent clause
728.107(a)(2)(B)	268.7(a)(2)(ii)	Added explanatory language in place of reserved subsection
728.107(a)(3)(B)	268.7(a)(3)(ii)	Added “the column headed ‘(a)(3)’”
728.107(a)(7)	268.7(a)(7)	Added comma to offset parenthetical “as specified at 35 Ill. Adm. Code 721.104(a)(2);” used “that” in place of “which;” added “that;” used “under 35 Ill. Adm. Code 730” in place of “by the SDWA”
728.107(b)(3)(B)	268.7(b)(3)(ii)	Used “USEPA hazardous waste number and manifest number” in place of “USEPA Hazardous Waste and Manifest numbers;” replaced dash with “through;” added “waste;” added space to “a characteristic”
728.107(b)(4)(D)	268.7(b)(4)(iv)	Added “that” (twice)

728.107(b)(4)(E)	268.7(b)(4)(v)	Used lower case “universal treatment standards” (twice)
728.107(e)	268.7(e)	Changed to singular “a generator or treater . . . receives;” used “that” in place of “who” (twice); used “USEPA or the Agency” in place of “EPA or an authorized state;” offset “as provided in Section 728.149(a)” in commas as parenthetical (twice); changed “must” to “shall do the following”
728.133	268.33	Capitalized heading
728.133(a)	268.33(a)	Omitted past effective date; used “USEPA hazardous waste number” (twice); deleted unnecessary comma after “K140”
728.133(b)(2)	268.33(b)(2)	Used “the Board has” in place of “persons have been;” added “the” before “wastes”
728.133(b)(4)	268.33(b)(4)	Added commas to parenthetical “in the alternative;” added definite article “the” before “treatment”
728.133(b)(5)	268.33(b)(5)	Used “USEPA has” in place of “persons have been;” added comma and replaced “pursuant to” with “as described in”
728.133(c)	268.33(c)	Used “shall” in place of “must;” added “in” before “the waste;” used lower case “universal treatment standard”
728.134	268.34	Capitalized heading
728.134(a)	268.34(a)	Omitted past effective date; used “USEPA hazardous waste number;” used “through” in place of dash; added comma after “i.e.”
728.134(b)	268.34(b)	Omitted past effective date; used lower case “slag;” used “that” in place of “which;” used lower case “characteristic of toxicity” in place of “Toxicity Characteristic”
728.134(c)	268.34(c)	Used “USEPA hazardous waste numbers;” used “through” in place of dash; added comma after “i.e.”
728.134(d)	268.34(d)	Deleted past effective date, added “until”; Used “USEPA hazardous waste numbers;” used “through” in place of dash; added comma after “i.e.”
728.134(e)	268.34(e)	Added “any of the following applies to the waste”
728.134(e)(2)	268.34(e)(2)	Used “the Board has” in place of “persons have been”

728.134(e)(4)	268.34(e)(4)	Used "USEPA has" in place of "persons have been;" corrected "these" to "those"
728.134(e)	268.34(e)	Used lower case "universal treatment standard"
728.140(e)	268.40(e)	Used singular "a characteristic waste . . . is;" used singular "USEPA hazardous waste number;" added "the waste" (twice); removed unnecessary comma after "(CWA);" added "or one;" removed unnecessary comma after "CWA-equivalent"
728.140(h)	268.40(h)	Added "USEPA hazardous waste numbers;" used "through" in place of dash; removed commas offsetting restrictive relative clause "that were . . . put into storage"
728.142(a)	268.42(a)	Added "listed;"
728.144(a)	268.44(a)	Replaced "the Administrator may approve a variance" with "the Board will grant an adjusted standard;" added "the petitioner can demonstrate . . ."
728.144(a)(2)	268.44(a)(2)	Added "either of the following applies . . ."
728.144(h)	268.44(h)	Replaced "the Administrator may approve a variance" with "the Board will grant an adjusted standard;" added "the petitioner can demonstrate . . ."
728.144(h)(2)	268.44(h)(2)	Added "either of the following applies . . ."
728.144(h)(3)	268.44(h)(3)	Replaced "treatment variances approved" with "an adjusted standard from a treatment standard granted;" change "must" to "will;" added "include the following features"
728.144(h)(3)(A)	268.44(h)(3)(i)	Added "the adjusted standard from the treatment standard will;" added "an" before "alternative;" used singular "standard;" added "will achieve the following"
728.144(h)(3)(A)(i)	268.44(h)(3)(i)(B)	Added "it will"
728.144(h)(3)(A)(ii)	268.44(h)(3)(i)(B)	Added "it will"
728.144(h)(3)(B)	268.44(h)(3)(ii)	Added "the adjusted standard from the treatment standard will"
728.144(h)(5)	268.44(h)(5)	Added "the Board . . . pertaining to"

728.144(m)	268.44(m)	Changed “all variances” to “any adjusted standard from a treatment standard;” changed “any given treatment variance” to “the requested adjusted standard;” changed “EPA” to “the Board;” changed “a treatment variance” to “the adjusted standard;” changed “approved” to “granted”
728.149	268.49	Capitalized heading
728.149(a)	268.49(a)	Changed “you must” to “an owner or operator shall;” removed unnecessary commas offsetting “or . . . generated;” added pronoun “which” before “exhibited;” changed “you” to “an owner or operator”
728.149(a) table	268.49(a)	Added definite article “the” to first two column headings; changed “you” to “an owner or operator” in fourth column heading; changed “didn’t” to “did not” (three times); changed “don’t” to “do not;” changed “needn’t” to “needs not”
728.149(b)	268.49(b)	Used lower case “universal treatment standard” (twice); used “or” in place of “and/or”
728.149(c)	268.49(c)	Used lower case “universal treatment standard”
728.149(c)(1)(C)	268.49(c)(1)(C)	Used lower case “universal treatment standard” (twice)
728.149(d)	268.49(d)	Used lower case “universal treatment standard”
728.149(e)(2)	268.49(e)(2)	Added “the following requirements”
728.Table I	268.7(a)(4), Table 1	Added “USEPA hazardous waste numbers;” added “waste;” added closing bracket
728.Table T “D004”	268.40, Table	Retained method number
728.Table T “D005”	268.40, Table	Retained method number
728.Table T “D006”	268.40, Table	Retained method number
728.Table T “D007”	268.40, Table	Retained method number
728.Table T “D008”	268.40, Table	Retained method number
728.Table T “D009”	268.40, Table	Retained method number
728.Table T “D010”	268.40, Table	Retained method number
728.Table T “D011”	268.40, Table	Retained method number
728.Table T “D012”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses

728.Table T “D013”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D014”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D015”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D016”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D017”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D018”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D019”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D020”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D021”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D022”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D023”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D024”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D025”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D026”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses

728.Table T “D027”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D028”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D029”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D030”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D031”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D032”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D033”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D034”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D035”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D036”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D037”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D038”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D039”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D040”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses

728.Table T “D041”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D042”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table T “D043”	268.40, Table	Added “toxicity characteristic leaching procedure;” placed abbreviation “TCLP” in parentheses
728.Table U note 7	268.48(a), Table	Offset parenthetical “as defined at Section 728.102(i)” with commas;
738.118(a)	148.18(a)	Deleted past effective date; used “through” in place of dash; added comma after “i.e.”
738.118(b)	148.18(b)	Used “through” in place of dash; added comma after “i.e.”
738.118(h)	148.18(h)	Omitted past effective date; used “USEPA hazardous waste number” (twice); added “underground”
739.122(d)	279.22(d)	Added “federal;” changed “35 Ill. Adm. Code 731.Subpart F” to “40 CFR 280, Subpart F;” substituted “October 4, 1996” for effective date language; added Board note explaining interpretation of effective date
739.122(d)(3)	279.22(d)(3)	Moved “properly” to read “properly clean up and manage”
739.145(h)	279.45(h)	Added “federal;” changed “35 Ill. Adm. Code 731.Subpart F” to “40 CFR 280, Subpart F;” substituted “October 4, 1996” for effective date language; added Board note explaining interpretation of effective date
739.145(h)(3)	279.45(h)(3)	Moved “properly” to read “properly clean up and manage”
739.154(g)	279.54(g)	Added “federal;” changed “35 Ill. Adm. Code 731.Subpart F” to “40 CFR 280, Subpart F;” substituted “October 4, 1996” for effective date language; added Board note explaining interpretation of effective date
739.154(g)(3)	279.54(g)(3)	Moved “properly” to read “properly clean up and manage”

739.164(g)	279.64(g)	Added “federal;” changed “35 Ill. Adm. Code 731.Subpart F” to “40 CFR 280, Subpart F;” substituted “October 4, 1996” for effective date language; added Board note explaining interpretation of effective date
739.164(g)(3)	279.64(g)(3)	Moved “properly” to read “properly clean up and manage”

Board Amendments Not Federally-Derived

Section	Revision(s)
703.155 Board Note	Revised Board note format; added explanation of implementation of MACT standards
703.Appendix A paragraph L(6)(b) Board Note	Changed “note” to “Board note”
720.111(b)	Added reference to federal Clean Air Act national emission standards for hazardous air pollutants
721.102(e)(2)	Changed “above” to “of this Section”
721.102(e)(2)(D)	Changed “above” to “of this Section”
721.103(a)(2)(A)	Corrected Subpart cross reference format
721.103(a)(2)(B)	Corrected Subpart cross reference format (twice)
721.103(a)(2)(C)	Corrected Subpart cross reference format (twice)
721.103(a)(2)(D)	Corrected Subpart cross reference format; changed “above” to “of this Section”
721.103(a)(2)(D)(v)	Corrected Subpart cross reference format
721.103(a)(2)(E)	Corrected Subpart cross reference format; corrected Section cross reference format
721.103(b)	Changed “above” to “of this Section”
721.103(b)(1)	Corrected Subpart cross reference format (twice)
721.103(b)(1)	Corrected Subpart cross reference format
721.103(b)(1)	Corrected Subpart cross reference format
721.103(c)	Changed “below” to “of this Section”
721.103(c) Board Note	Changed “below” to “of this Section”
721.103(d)	Changed “above” to “of this Section”
721.103(d)(1)	Corrected Subpart cross reference format
721.103(d)(2)	Corrected Subpart cross reference format (three times); changed “above” to “of this Section”
721.103(e)(1)	Changed “below” to “of this Section”
721.103(f)	Changed “above” to “of this Section;” corrected Subpart cross reference format
721.106(a)(3)(E)	Corrected Subpart cross reference format
721.132	Changed “EPA” to “USEPA”

721.133(e)	Added “USEPA” and “(CAS No.)” in column headings
721.133(f)	Added “USEPA” and “(CAS No.)” in column headings
721.Appendix G	Changed “EPA” to “USEPA” in column heading
721.Appendix G K020	Removed hyphen from “tetrachloroethanes”
721.Appendix G column heading	Added “(CAS No.)” and “USEPA” in column headings
724.173(b)(6)	Corrected Subpart cross reference format
724.931	Added quotation marks for all defined terms
724.931 “first attempt at repair”	Placed in proper alphabetical order
724.931 “ppmw”	Changed “meant” to “means”
724.931 “scft”	Changed “meant” to “means”
724.933(c)	Added “degrees Centigrade” and placed “° C” in parentheses for first appearance of abbreviation in the Section
724.933(n)(1)(A)	Corrected Subpart cross reference format
724.933(n)(1)(B)	Corrected Subpart cross reference format
724.933(n)(2)(A)	Corrected Subpart cross reference format
724.960(a)	Changed to singular “an owner or operator of a closed-vent system or control device”
724.962(b)(2)	Changed digit to “two”
724.962(b)(3)	Changed digit to “two”
724.964(m)	Removed unnecessary comma
724.980(a)	Removed effective date; corrected Subpart cross reference format; removed Board note
724.982(b)	Added definite article “the”
724.982(c)(4)(B)	Added comma and “as set forth”
724.984(f)(3)(C)	Corrected subsection crossreference format by adding “of this Section”
724.984(f)(3)(D)(iv) Board note	Changed “correspond with” to “are derived from”
724.987(c)(3)(B)	Changed “shall” to “must”
725.173(b)(6)	Corrected Subpart cross reference format
725.933(c)	Added “degrees Centigrade” and placed “° C” in parentheses for first appearance of abbreviation in the Section
725.933(n)(1)(B)	Corrected Subpart cross reference format
725.933(n)(2)(A)	Corrected Subpart cross reference format
725.960(a)	Changed to singular “an owner or operator of a closed-vent system or control device”
725.962(b)(2)	Changed digit to “two”
725.962(b)(3)	Changed digit to “two”
725.964(m)	Removed unnecessary comma
725.980(a)	Removed effective date; corrected Subpart cross reference format; removed Board note

725.980(b)(1)	Added comma after “1996”
725.981 “in light material service”	Added pronoun “that”
725.982(a)	Corrected Subpart cross reference format
725.982(a)(1)	Changed “below” to “of this Section”
725.982(a)(2)(C)	Changed “above” to “of this Section”
725.982(a)(2)(D)	Changed “above” to “of this Section”
725.982(b)	Corrected Subpart cross reference format
725.982(b)(1)	Changed “below” to “of this Section”
725.982(b)(2)(B)(i)	Changed “above” to “of this Section”
725.982(b)(2)(B)(ii)	Changed “above” to “of this Section;” removed commas offsetting phrase “located at the facility site”
725.982(d)	Amended provision to provide for extension by the Board using the adjusted standard procedure, rather than for extension by the Agency; added “when the facility owner or operator proves the following”
725.982(d)(1)	Changed “when special circumstances that are beyond” to “that special circumstances beyond;” changed “delay” to “have delayed or will delay”
725.982(d)(2)	Added “that”
725.983(b)	Added definite article “the”
725.983(c)(2)(G)(ii)	Corrected Subpart cross reference format
725.983(c)(4)(B)	Added comma and “as set forth”
725.984(a)(2)	Added comma after “Section” to offset parenthetical
725.984(a)(3)(B)(ii)	Corrected “less” to “fewer”
725.984(a)(3)(C)	Added “of this Section;” added definite article “the;” added comma after “720.111” to offset parenthetical; changed brackets to parentheses; deleted unnecessary comma after “compounds;” added “it would have had;” added commas to offset parenthetical “had it been measured using Method 25D”
725.984(a)(3)(C)(vi)	Corrected “(a)(3)(E)” to “(a)(3)(F)”
725.984(a)(3)(C)(vii)	Corrected “(a)(3)(E)” to “(a)(3)(F)”
725.984(a)(3)(D)(i)	Removed italics from “ \bar{C} ” (twice); reformatted equation to remove italics
725.984(a)(3)(F) Board note	Changed “correspond with” to “are derived from”
725.984(a)(4)(D) Board note	Added commas to offset parenthetical “as specified . . . this Section”
725.984(b)(1)	Added definite article “the”
725.984(b)(3)(B)(ii)	Corrected “less” to “fewer”
725.984(b)(3)(D)	Reformatted equation to remove italics; removed italics from “ \bar{C} ”
725.984(b)(4)(C)	Reformatted equation to remove italics; removed italics from “ \bar{C} ”
725.984(b)(5)(D)	Reformatted (two) equations to remove italics; removed italics from “ \bar{C} ” (twice)

725.984(b)(5)(E)	Reformatted equation to remove italics
725.984(b)(6)(B)	Reformatted equation to remove italics
725.984(b)(7)(D)	Reformatted equation to remove italics
725.984(b)(8)(C)	Reformatted equation to remove italics; added definite article “the” before “process” (twice)
725.984(b)(9)(D)	Added commas and “as” to offset parenthetical “determined in accordance with . . . this Section;” added parenthetical “respectively;” reformatted equation to remove italics
725.985(f)(3)(D)(iv) Board note	Changed “correspond with” to “are derived from”
725.986(d)(1)(C)	Removed commas offsetting prepositional phrase; added pronoun “which”
725.990(f)(2)	Deleted “of this Subpart”
728.104(a)(2)(B)	Corrected Subpart cross reference format (three times); changed “which” to “that” (twice)
728.104(a)(3)	Corrected Subpart cross reference format
728.107(a)(4)	Replaced colon with comma; used lower case for “there”
728.142(a)	Moved comma within quotation mark
728.142(a)(2)	Corrected Subpart cross reference format
728.142(b)	Replaced “subsections (a) above and (c) and (d) below” with “subsections (a), (c), and (d) of this Section;” corrected spelling of “specified;” changed “above” to “of this Section;” changed “below” to “of this Section”
728.142(c)	Corrected Subpart cross reference format
728.142(c)(4)	Corrected Subpart cross reference format
728.144(a)(2)(B) Board note	Changed “adjusted treatment standard” to “adjusted standard from a treatment standard;” added “of this Section”
728.144(c)	Added quotation marks to certification statement
728.145(a)	Added comma before “unless”
728.145(a)(1)	Changed “below” to “of this Section”
728.145(a)(4)	Changed “below” to “of this Section”
728.145(d)(1)	Changed “below” to “of this Section”
728.145(d)(1)(B)	Corrected Subpart cross reference format
728.145(d)(2)	Changed “above” to “of this Section;” corrected Subpart cross reference format
728.145(d)(3)	Changed “U.S. EPA” to “USEPA”
728.145(d)(4)	Used “percent” in place of “%,” changed “U.S. EPA” to “USEPA”
728. Table T “D009”	Restored missing hazardous waste number heading
728. Table T “F032”	Changed “and/or” to “or”
728. Table T “K161”	Corrected arsenic wastewaters standard to “1.4”
728. Table U	Moved “p-chloro-m-cresol,” “ethylene oxide,” and “bis(2-ethylhexyl) phthalate” into proper alphabetical order
738.118(c)	Deleted past effective date
738.118(f)	Deleted subsection withdrawn by USEPA on April 8, 1996

739.154(h)(1)(B)	Changed “above” to “of this Section”
739.174(a)(3)	Changed “U.S. EPA” to “USEPA”
739.174(a)(4)	Changed “U.S. EPA” to “USEPA”
739.174(b)	Added “or re-refiner” missing from base text
739.174(c)	Changed “above” to “of this Section”

HISTORY OF RCRA SUBTITLE C, UST AND UIC ADOPTION
AGENCY OR BOARD ACTION?
EDITORIAL CONVENTIONS

The Board appends the following three routine discussions to this opinion. The first is a summary history of the Illinois RCRA Subtitle C and UIC programs. It lists all Board actions taken to adopt and maintain these programs since their inceptions. It includes a listing of all site-specific rulemaking and adjusted standards proceedings filed that relate to these programs. It also lists all USEPA program authorizations issued to date. The second is a discussion of how the Board codifies requirements that call for state determinations, such as for exemptions, exceptions, etc. The third discussion relates to our use of language in the codification of identical-in-substance rules. We intend these as reference aids for interested persons in the regulated community.

History of RCRA Subtitle C and UIC Adoption

The Illinois UIC (Underground Injection Control) and RCRA (Resource Conservation and Recovery Act) Subtitle C regulations, together with more stringent state regulations particularly applicable to hazardous waste, include the following Parts of Title 35 of the Illinois Administrative Code:

- 700 Outline of Waste Disposal Regulations (Repealed)
- 702 RCRA Subtitle C and UIC Permit Programs
- 703 RCRA Subtitle C 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
- 732 Petroleum Underground Storage Tanks

- 733 Standards for Universal Waste Management
- 738 Hazardous Waste Injection Restrictions
- 739 Standards for the Management of Used Oil

Special provisions for RCRA Subtitle C cases are included in Parts 102, 103, 104, and 106 of the Board's procedural rules.

History of RCRA Subtitle C and State Hazardous Waste Rules Adoption

The Board has adopted and amended the Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules in several dockets. Dockets R81-22 and R82-18 dockets dealt with the Phase I RCRA Subtitle C regulations. The Board adopted RCRA Subtitle C Phase II regulations in Parts 703 and 724 in dockets R82-19 and R83-24. USEPA reviewed and authorized the Illinois Phase I and Phase II regulations. The entire listing of all RCRA Subtitle C identical-in-substance rulemakings follows (with the period of corresponding federal revisions indicated in parentheses). A listing of federal authorizations of the Illinois program to date, as noticed in the *Federal Register*, appears at the end of this historical summary of the Illinois hazardous waste program.

- | | |
|---------------------|--|
| R81-22 | 45 PCB 317, September 16, 1981 and February 4, 1982; 6 Ill. Reg. 4828, April 23, 1982, effective May 17, 1982. (5/19/80 through 10/1/81) |
| R82-18 | 51 PCB 31, January 13, 1983; 7 Ill. Reg. 2518, March 4, 1983, effective May 17, 1982. (11/11/81 through 6/24/82) |
| R82-19 ⁴ | 53 PCB 131, July 26, 1983, 7 Ill. Reg. 13999, October 28, 1983, effective October 2, 1983. (11/23/81 through 10/29/82) |
| R83-24 ¹ | 55 PCB 31, December 15, 1983, 8 Ill. Reg. 200, January 6, 1984, effective December 27, 1983. (Corrections to R82-19) |
| R84-9 | 64 PCB 427 and 521, June 13 and 27, 1985; 9 Ill. Reg. 11964, August 2, 1985, effective July 8 and 24, 1985. (1/19/83 through 4/24/84) |
| R85-22 | 67 PCB 175, 479, December 20, 1985 and January 9, 1986; 10 Ill. Reg. 968, January 17, 1986, effective January 2, 1986. (4/25/84 through 6/30/85) |
| R86-1 | 71 PCB 110, July 11, 1986; 10 Ill. Reg. 13998, August 22, 1986, effective August 12, 1986. (7/1/85 through 1/31/86) |

¹ On September 6, 1984, the Third District Appellate Court upheld the Board's actions in adopting R82-19 and R83-24. Commonwealth Edison Co. v. PCB, 127 Ill. App. 3d 446; 468 N.E.2d 1339 (3d Dist. 1984).

- R86-19 73 PCB 467, October 23, 1986; 10 Ill. Reg. 20630, December 12, 1986, effective December 2, 1986. (2/1/86 through 3/31/86)
- R86-28 75 PCB 306, February 5, 1987; and 76 PCB 195, March 5, 1987; 11 Ill. Reg. 6017, April 3, 1987, effective March 23, 1987. Correction at 77 PCB 235, April 16, 1987; 11 Ill. Reg. 8684, May 1, 1987, effective April 21, 1987. (4/1/86 through 6/30/86)
- R86-46 79 PCB 676, July 16, 1987; 11 Ill. Reg. 13435, August 14, 1987, effective August 4, 1987. (7/1/86 through 9/30/86)
- R87-5 82 PCB 391, October 15, 1987; 11 Ill. Reg. 19280, November 30, 1987, effective November 10 and 12, 1987. (10/1/86 through 12/31/86)
- R87-26 84 PCB 491, December 3, 1987; 12 Ill. Reg. 2450, January 29, 1988, effective January 15, 1988. (1/1/87 through 6/30/87)
- R87-32 Correction to R86-1; 81 PCB 163, September 4, 1987; 11 Ill. Reg. 16698, October 16, 1987, effective September 30, 1987.
- R87-39 90 PCB 267, June 16, 1988; 12 Ill. Reg. 12999, August 12, 1988, effective July 29, 1988. (7/1/87 through 12/31/87)
- R88-16 93 PCB 513, November 17, 1988; 13 Ill. Reg. 447, January 13, 1989, effective December 28, 1988. (1/1/88 through 7/31/88)
- R89-1 103 PCB 179, September 13, 1989; 13 Ill. Reg. 18278, November 27, 1989, effective November 13, 1989. (8/1/88 through 12/31/88)
- R89-9 109 PCB 343, March 8, 1990; 14 Ill. Reg. 6225, April 27, 1990, effective April 16, 1990. (1/1/89 through 6/30/89)
- R90-2 113 PCB 131, July 3, 1990; 14 Ill. Reg. 14401, September 7, 1990, effective August 22, 1990. (7/1/89 through 12/31/89)
- R90-11 121 PCB 97, April 11, 1991; corrected at 122 PCB 305, May 23, 1991; corrected at 125 PCB 117, August 8, 1991; uncorrected at 125 PCB 435, August 22, 1991; 15 Ill. Reg. 9323, effective June 17, 1991. (Third Third Land Disposal Restrictions) (4/1/90 through 6/30/90)
- R90-17 Delisting Procedures (See below)
- R91-1 125 PCB 119, August 8, 1991; 15 Ill. Reg. 14446, effective September 30, 1991. (Wood Preserving Rules) (7/1/90 through 12/30/90)

- R91-13 132 PCB 263, April 9, 1992; 16 Ill. Reg. 9489, effective June 9, 1992. (Boilers and Industrial Furnaces (BIFs) Rules) (1/1/91 through 6/30/91)
- R91-26 129 PCB 235, January 9, 1992; 16 Ill. Reg. 2600, effective February 3, 1992. (Wood Preserving Rules Compliance Dates)
- R92-1 136 PCB 121, September 17, 1992; 16 Ill. Reg. 17636, effective November 6, 1992. (7/1/91 through 12/31/91)
- R92-10 138 PCB 549, January 21, 1993; 17 Ill. Reg. 5625, effective March 26, 1993. (Leak Detection Systems (LDS) Rules) (1/1/92 through 6/30/92)
- R93-4 September 23, 1993; 17 Ill. Reg. 20545, effective November 22, 1993. (Used Oil Rules) (7/1/92 through 12/31/92)
- R93-16 March 17, 1994, Supplemental opinion and order on April 21, 1994. (1/1/93 through 6/30/93)
- R94-7 June 23, 1994; 18 Ill. Reg. 12160, effective July 29, 1994. (7/1/93 through 12/31/93)
- R94-17 October 20, 1994; 18 Ill. Reg. 17480, effective November 23, 1994. (1/1/94 through 6/30/94)
- R95-6 June 1 and 15, 1995; 19 Ill. Reg. 9501, effective June 27, 1995. (Consolidated with R95-4, UIC Update.) (7/1/94 through 12/31/94)
- R95-20 June 20, 1996; 20 Ill. Reg. 10929, effective August 1, 1996. (1/1/95 through 6/30/95)
- R96-10 November 6, 1997, 22 Ill. Reg. 256, effective December 16, 1997. (Consolidated with R97-3, UIC Update, and R97-5, RCRA Subtitle C update.) (7/1/95 through 12/31/95)
- R97-5 November 6, 1997, 22 Ill. Reg. 256, effective December 16, 1997. (Consolidated with R96-10, RCRA Subtitle C update, and R97-3, UIC Update.) (1/1/96 through 6/30/96)
- R97-21 August 20, 1998. (Consolidated with R98-5, RCRA Subtitle C update, and R98-3, UIC Update.) (7/1/96 through 12/31/96)
- R98-5 August 20, 1998. (Consolidated with R97-21, RCRA Subtitle C update, and R98-3, UIC update.) (1/1/97 through 6/30/97)

- R98-21 This docket. (Consolidated with R99-2, RCRA Subtitle C update, and R99-7, UIC update.) (7/1/97 through 12/31/97)
- R99-2 This docket. (Consolidated with R98-21, RCRA Subtitle C update, and R99-7, UIC update.) (7/1/97 through 12/31/97)

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, December 21, 1984, effective December 11, 1984.

This was repealed by R85-22, which included adoption of USEPA's dioxin listings. Section 22.4(d) was repealed by P.A. 85-1048, effective January 1, 1989.

The Board has adopted USEPA delistings at the request of Amoco, Envirite, USX, and CSI (the date of the corresponding federal action is included in parentheses):

- R85-2 69 PCB 314, April 24, 1986; 10 Ill. Reg. 8112, May 16, 1986, effective May 2, 1986. (Amoco Corp.)
- R87-30 90 PCB 665, June 30, 1988; 12 Ill. Reg. 12070, July 22, 1988, effective July 12, 1988. (Envirite Corp.)
- R91-12 128 PCB 369, December 19, 1991; 16 Ill. Reg. 2155, effective January 27, 1992. (USX Corp.)
- R95-20 June 20, 1996; 20 Ill. Reg. 10929, effective August 1, 1996. (1/1/95 through 6/30/95) (CSI)

Subsequently, upon the April 30, 1990, federal authorization of Illinois granting waste delistings, USEPA transferred pending delisting petitions to the Board. The Board docketed these as site-specific rulemaking proceedings (the name of the petitioner waste generator appears in parentheses):

- R90-18 Dismissed at 123 PCB 65, June 6, 1991. (USX Corp., South Works)
- R90-19 Dismissed at 116 PCB 199, November 8, 1990. (Woodward Governor Co.)
- R90-23 Dismissed at 124 PCB 149, July 11, 1991. (Keystone Steel & Wire Co.)

The Board has modified the delisting procedures to allow the use of adjusted standards in lieu of site-specific rulemakings:

R90-17 119 PCB 181, February 28, 1991; 15 Ill. Reg. 7934, effective May 9, 1991.

Waste generators have filed Part 106 adjusted standard petitions for solid waste determinations with the Board pursuant to Section 720.130 (generator name in parentheses):

AS89-4 Dismissed at 105 PCB 269, November 15, 1989. (Safety-Kleen Corp.)

AS89-5 Dismissed at 113 PCB 111, July 3, 1990. (Safety-Kleen Corp.)

AS90-7 Dismissed at 124 PCB 125, July 11, 1991. (Quantum Chemical Co.)

Waste generators have filed Part 106 adjusted standard petitions for hazardous waste delistings with the Board pursuant to Section 720.122 (generator name in parentheses):

AS91-1 Granted at 130 PCB 113, February 6, 1992, and modified at 133 PCB 189, April 23, 1992. (Keystone Steel & Wire Co.)

AS91-3 Granted at 139 PCB 121, February 4, 1993; opinion issued at 140 PCB 105, March 11, 1993. (Peoria Disposal Co.)

AS93-7 Granted February 17, 1994. (Keystone Steel & Wire Co.)

AS94-10 Granted December 14, 1994. (Envirite Corporation.)

The Board has procedures to be followed in cases before it involving the RCRA Subtitle C 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 special procedures to be followed in certain determinations under Part 106. The Board adopted these Part 106 special procedures in R85-22 and amended them in R86-46, listed above.

One Part 106 adjusted standard proceeding filed pursuant to 728.106 sought relief from a prohibition against land disposal (petitioner's name in parentheses):

AS90-6 Dismissed at 136 PCB 93, September 17, 1992. (Marathon Petroleum Co.)

Other adjusted standard proceedings sought relief from aspects of the land disposal unit closure and post-closure care requirements (petitioners' names in parentheses):

AS90-8 130 PCB 349, February 27, 1992. (Olin Corp.)

AS91-4 131 PCB 43, March 11, 1992. (Amoco Oil Co.)

One adjusted standard proceeding sought relief from a RCRA Subtitle C land disposal restriction (petitioner's name in parentheses):

AS90-6 136 PCB 6, September 17, 1992. (Marathon Petroleum Co.)

Still another adjusted standard proceeding relates to substantive treatment, storage, and disposal facility requirements of the RCRA Subtitle C regulations (petitioner's name and requirements involved in parentheses):

AS91-10 Dismissed May 19, 1994. (Cabot Corp.; secondary containment for tanks)

In another regulatory proceeding, the Board has considered granting temporary relief from the termination of an exclusion of a hazardous waste listing in the form of an emergency rule (Petitioner's name in parentheses):

R91-11 Dismissed at 125 PCB 295, August 8, 1991. (Big River Zinc Corp.)

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

R81-25 60 PCB 381, October 25, 1984; 8 Ill. Reg. 24124, December 14, 1984, effective December 4, 1984.

R83-28 68 PCB 295, February 26, 1986; 10 Ill. Reg. 4875, March 21, 1986, effective March 7, 1986.

R86-9 Emergency regulations adopted at 73 PCB 427, October 23, 1986; 10 Ill. Reg. 19787, November 21, 1986, effective November 5, 1986.

The Board's action in adopting emergency regulations in R86-9 was reversed by the First District Court of Appeals. (Citizens for a Better Environment v. PCB, 152 Ill. App. 3d 105, 504 N.E.2d 166 (1st Dist. 1987).)

Public Act 90-502, eff. Aug. 19, 1997, amended Section 22.23a of the Act to require the Board to designate high intensity discharge lamps and fluorescent lamps as a category of universal waste based on a proposal to be filed by the Agency. The Board adopted such amendments to the Illinois hazardous waste rules on April 2, 1998, effective April 15, 1998. In The Matter of: Amendments of 35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733 (Standards For Universal Waste Management) (April 2, 1998), R98-12.

USEPA periodically reviews the Illinois hazardous waste program as it evolves to incorporate more recent federal amendments. As a result of these reviews, USEPA has granted Illinois a number of authorizations. The *Federal Register* citations for the authorizations are listed as follows:

47 Fed. Reg. 21043 (May 17, 1982) (Phase I authorization).

51 Fed. Reg. 3778 (Jan. 30, 1986) (Phase II authorization), effective January 31, 1986.

53 Fed. Reg. 126 (Jan. 5, 1988) (partial HSWA authorization), effective March 5, 1988.

54 Fed. Reg. 37649 (Sep. 12, 1989) (approvals codified as 40 C.F.R. 272.700 and 272.701), effective November 13, 1989

55 Fed. Reg. 7320 (Mar. 1, 1990), effective April 30, 1990

56 Fed. Reg. 13595 (Apr. 3, 1991), effective June 3, 1991

57 Fed. Reg. 3731 (Jan. 31, 1992), effective March 31, 1992

59 Fed. Reg. 30525 (June 14, 1994), effective August 14, 1994

61 Fed. Reg. 10684 (Mar. 15, 1996), effective May 14, 1996

61 Fed. Reg. 40520 (Aug. 5, 1996), effective October 4, 1996

History of UIC Rules Adoption

The Board has adopted and amended Underground Injection Control (UIC) regulations in several dockets to correspond with the federal regulations. One such docket, R82-18, was a RCRA Subtitle C docket. The entire listing of all UIC rulemakings follows (with the period of corresponding federal revisions indicated in parentheses):

R81-32 47 PCB 93, May 13, 1982; 6 Ill. Reg. 12479, October 15, 1982, effective February 1, 1984. (7/7/81 through 11/23/81)

R82-18 51 PCB 31, January 13, 1983; 7 Ill. Reg. 2518, March 4, 1983, effective May 17, 1982. (11/11/81 through 6/24/82)

R83-39 55 PCB 319, December 15, 1983; 7 Ill. Reg. 17338, December 20, 1983, effective December 19, 1983. (4/1/83)

- R85-23 70 PCB 311 and 71 PCB 108, June 20 and July 11, 1986; 10 Ill. Reg. 13274, August 8, 1986, effective July 28 and 29, 1986. (5/11/84 through 11/15/84)
- R86-27 Dismissed at 77 PCB 234, April 16, 1987. (No USEPA amendments through 12/31/86).
- R87-29 85 PCB 307, January 21, 1988; 12 Ill. Reg. 6673, April 8, 1988, effective March 28, 1988. (1/1/87 through 6/30/87)
- R88-2 90 PCB 679, June 30, 1988; 12 Ill. Reg. 13700, August 26, 1988, effective August 16, 1988. (7/1/87 through 12/31/87)
- R88-17 94 PCB 227, December 15, 1988; 13 Ill. Reg. 478, January 13, 1989, effective December 30, 1988. (1/1/88 through 6/30/88)
- R89-2 107 PCB 369, January 25, 1990; 14 Ill. Reg. 3059, March 2, 1990, effective February 20, 1990. (7/1/88 through 12/31/88)
- R89-11 111 PCB 489, May 24, 1990; 14 Ill. Reg. 11948, July 20, 1990, effective July 9, 1990. (1/1/89 through 11/30/89)
- R90-5 Dismissed at 109 PCB 627, March 22, 1990. (No USEPA amendments 12/1/89 through 12/31/89)
- R90-14 122 PCB 335, May 23, 1991; 15 Ill. Reg. 11425, effective July 24, 1991. (1/1/90 through 6/30/90)
- R91-4 Dismissed at 119 PCB 219, February 28, 1991. (No USEPA amendments 9/1/90 through 12/31/90)
- R91-16 Dismissed at 128 PCB 229, December 6, 1991. (No USEPA amendments 1/1/90 through 6/30/91)
- R92-4 Dismissed at 133 PCB 107, April 9, 1992. (No USEPA amendments 7/1/91 through 12/31/91)
- R92-13 139 PCB 361, February 4, 1993; 17 Ill. Reg. 6190, effective April 5, 1993. (1/1/92 through 6/30/92)
- R93-6 August 5, 1993; 17 Ill. Reg. 15641, effective September 14, 1993. (7/1/92 through 12/31/92)
- R93-17 Dismissed at September 23, 1993. (No USEPA amendments 1/1/93 through 6/30/93)

- R94-5 November 3, 1994; 18 Ill. Reg. 18244, effective December 20, 1994. (7/1/93 through 12/31/93)
- R94-24 October 6, 1994. (USEPA amendments 7/1/93 through 12/31/94 included in RCRA Subtitle C docket R94-17)
- R95-4 June 1 and 15, 1995; 19 Ill. Reg. 9501, effective June 27, 1995. (Consolidated with R95-6, RCRA Subtitle C Update.) (7/1/94 through 12/31/94)
- R95-18 Dismissed October 5, 1995. (No USEPA amendments 1/1/95 through 6/30/95)
- R96-8 Dismissed February 15, 1996. (No USEPA amendments 7/1/95 through 12/31/95)
- R97-3 November 6, 1997, 22 Ill. Reg. 256, effective December 16, 1997. (Consolidated with R96-10 and R97-5, RCRA Subtitle C updates.) (1/1/96 through 6/30/96)
- R97-19 Dismissed May 1, 1997. (No USEPA amendments 7/1/96 through 12/31/96)
- R98-3 August 20, 1998. (Consolidated with R97-21 and R98-5 RCRA Subtitle C updates.) (1/1/97 through 6/30/97)
- R98-19 Dismissed February 19, 1998. (No USEPA amendments 7/1/97 through 12/31/97)
- R99-2 This docket. (Consolidated with R98-21 and R99-2, RCRA Subtitle C updates.) (1/1/98 through 6/30/98)

In one proceeding filed, the Board granted an adjusted standard from a UIC land disposal restriction, pursuant to the procedures outlined above with respect to the RCRA Subtitle C program (petitioner name in parentheses):

- AS92-8 Granted February 17, 1994. (Cabot Corp.; no migration exception)

USEPA authorized the Illinois UIC program on March 3, 1984, at 49 Fed. Reg. 3991 (Feb. 1, 1984); codified that approval as 40 C.F.R. 147, Subpart O, at 49 Fed. Reg. 20197 (May 11, 1984); and amended the authorization at 53 Fed. Reg. 43087 (Oct. 25, 1988) and 56 Fed. Reg. 9414 (Mar. 6, 1991).

Agency or Board Action

Section 7.2(a)(5) of the Act requires the Board to specify which decisions USEPA will retain. In addition, the Board is to specify which State agency is to make decisions, based on the general division of functions within the Act and other Illinois statutes.

In situations in which the Board has determined that USEPA will retain decision-making authority, the Board has replaced "Regional Administrator" with USEPA, so as to avoid specifying which office within USEPA is to make a decision.

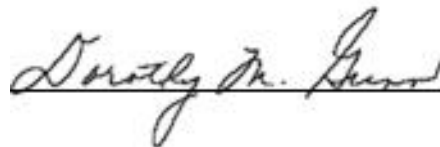
In a few instances in identical-in-substance rules, decisions are not appropriate for Agency action pursuant to a permit application. Among the considerations in determining the general division of authority between the Agency and the Board are:

1. Whether the person making the decision is applying a Board regulation, or taking action contrary to ("waiving") a Board regulation. It generally takes some form of Board action to "waive" a Board regulation.
2. Whether there is a clear standard for action such that the Board can give meaningful review to an Agency decision
3. Whether the action would result in exemption from the permit requirement itself. If so, Board action is generally required.
4. Whether the decision amounts to "determining, defining or implementing environmental control standards" within the meaning of Section 5(b) of the Act. If so, it must be made by the Board.

There are four common classes of Board decision: variance, adjusted standard, site-specific rulemaking, and enforcement. The first three are methods by which a regulation can be temporarily postponed (variance) or adjusted to meet specific situations (adjusted standard or site specific rulemaking). Note that there often are differences in the nomenclature for these decisions between the USEPA and Board regulations.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above opinion was adopted on the 17th day of September 1998 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board