

ILLINOIS POLLUTION CONTROL BOARD
October 10, 1985

IN THE MATTER OF:)
)
RCRA UPDATE, USEPA REGULATIONS) R85-22
(4/24/84 THROUGH 6/30/85))

PROPOSED RULE. PUBLICATION FOR PUBLIC COMMENT.

ORDER OF THE BOARD (by J. Anderson):

By this Order, pursuant to Section 22.4(a) of the Environmental Protection Act (Act), the Board is proposing to amend the RCRA regulations and is providing notice in the Illinois Register for public comment, pursuant to 35 Ill. Adm. Code 102.103 (see R84-10, Order of December 20, 1984).

CONTENTS OF PROPOSAL

On October 1, 1985, the Illinois Environmental Protection Agency (Agency) filed with the Board a rough draft of a proposal to update the RCRA regulations. The Agency's draft also included an update of the UIC regulations (35 Ill. Adm. Code 704); these will be addressed in Docket R85-23, which has been reserved by the Board today. The Agency's submittal is on file in the Clerk's office. The draft was electronically transmitted into the Board's word processing equipment for editing. The Board believes all transmission problems have been corrected.

This Board proposal is an edited version of the Agency's draft. The Board notes that this proceeding is related to the State's RCRA authorization and, thus, adopted rules must be submitted to the USEPA by the end of December. Therefore, in order to meet this deadline, the Board has not fully deliberated this proposal at this time; its deliberations will continue during the comment period. The Board also emphasizes that, because of the tight timetable, it will be unable to extend the 45-day public comment period.

Section 22.4 of the Act governs adoption of regulations establishing the RCRA hazardous waste program in Illinois. Section 22.4(a) provides for quick adoption of regulations which are "identical in substance" to federal regulations. Neither Title VII of the Act nor Section 5 of the Administrative Procedure Act applies to rules adopted under Section 22.4(a). Because this rulemaking is not subject to Section 5 of the Administrative Procedure Act, it is not subject to review by the Joint Committee on Administrative Rules (JCAR). The federal RCRA regulations are found at 40 CFR 260 through 265. Permitting procedures have been moved from 40 CFR 122 et seq. to 40 CFR 270 et seq. This rulemaking updates Illinois' RCRA rules to correspond with federal amendments adopted April 24, 1984 through June 30, 1985. The Federal Registers utilized are as follows:

49 FR 19922	May 10, 1984	(Ex 9)
49 FR 20138	May 11, 1984	(Ex 10)
49 FR 21678	May 22, 1984	(Ex 22)
49 FR 23284	June 5, 1984	(Ex 11)
49 FR 37066	September 21, 1984	(Ex 12)
49 FR 44978	November 13, 1984	(Ex 13)
49 FR 45304	November 15, 1984	(Ex 23)
49 FR 46094	November 21, 1984	(Ex 14)
49 FR 47390	December 4, 1984	(Ex 15)
49 FR 49568	December 20, 1984	(Ex 16)
50 FR 614	January 4, 1985	(Ex 17)
50 FR 1978	January 14, 1985	(Ex 18)
50 FR 4513	January 31, 1985	(Ex 24)
50 FR 14216	April 11, 1985	(Ex 19)
50 FR 16044	April 23, 1985	(Ex 20)
50 FR 18370	April 30, 1985	(Ex 21)

Copies of each of these items are attached to the Agency's proposal as exhibits with the number indicated.

HISTORY OF RCRA ADOPTION

The Illinois RCRA and UIC rules, together with more stringent state rules particularly applicable to hazardous waste, include the following:

702	RCRA and UIC Permit Programs
703	RCRA Permit Program
704	UIC Permit Program
705	Procedures for Permit Issuance
709	Wastestream Authorizations
720	General
721	Identification and Listing
722	Generator Standards
723	Transporter Standards
724	Final TSD Standards
725	Interim Status TSD Standards
729	Landfills: Prohibited Wastes
730	UIC Operating Requirements

Special procedures for RCRA cases are included in Parts 102, 103 and 104. This proposal involves additional procedures to be added to Part 106.

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

R81-22, 45 PCB 317, February 4, 1982, 6 Ill.
Reg. 4828, April 23, 1982.

R82-18, 51 PCB 31, January 13, 1983, 7 Ill.
Reg. 2518, March 4, 1983.

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

The UIC rules were adopted as follows:

R81-32, 47 PCB 93, 6 Ill. Reg. 12479.

The UIC rules were amended in R82-18, which is referenced above. Illinois received UIC authorization February 1, 1984.

The Phase II RCRA rules included adoption of Parts 703 and 724, which established the permit program and final TSD standards. The Phase II rules have been adopted and amended, but authorization has not been received:

R82-19, 53 PCB 31, July 26, 1983, 7 Ill. Reg. 13999, October 28, 1983.

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

R84-9, June 13, 1985; 9 Ill. Reg. 11964, effective July 24, 1985.

On September 6, 1984, the Third District Appellate Court upheld the Board's actions in adopting R82-19 and R83-24. (Commonwealth Edison et al. v. IPCB.)

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

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

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

R84-10, December 20, 1984, and January 10, 1985.

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

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

R83-28, December 20, 1984, and January 10, 1985, 9 Ill. Reg. 730.

SPECIFIC REQUEST FOR COMMENT

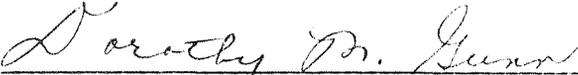
The Board's review, to date, has disclosed some important questions relating to the manner in which the federal RCRA

program is to be implemented in Illinois. Most of these involve the definitions of "boiler" and "industrial furnace," the procedures at Section 720.130 et seq. and the additional regulation of recycled waste at Section 720.140. The Board solicits comments on these mechanisms for making such determinations. Also, the Board notes that alternative determinations for industrial furnaces are handled by a different mechanism under the federal rule. Additionally, regarding Section 725.322, the Board requests comments as to what standards should be used (or are being used by USEPA) to determine what constitutes a qualified engineer or chemist.

The text of the proposed rules will be published in the Illinois Register; comments will be accepted for 45 days after publication. The full text is also on file in the Clerk's office.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 16th day of October, 1985, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board