

ILLINOIS POLLUTION CONTROL BOARD
May 17, 2001

IN THE MATTER OF:)	
)	
UIC UPDATE, USEPA AMENDMENTS)	R01-21
(July 1, 2000, through December 31, 2000))	(Identical-in-Substance
_____)	Rulemaking - Land)
)	
RCRA SUBTITLE C UPDATE, USEPA)	R01-23
AMENDMENTS (July 1, 2000, through)	(Identical-in-Substance
December 31, 2000))	Rulemaking - Land)
)	(Consolidated)

Adopted Rule. Final Order.

OPINION OF THE BOARD (by S.T. Lawton, Jr.):

SUMMARY OF TODAY'S ACTION

Under Sections 7.2 and 13(c) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 13(c) (1998)), the Board today adopts amendments to the Illinois regulations that are "identical in substance" to underground injection control (UIC) regulations that the United States Environmental Protection Agency (USEPA) adopted to implement Section 1421 of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. § 300h (1998)). The nominal timeframe of docket R01-21 includes federal UIC amendments that USEPA adopted in the period July 1, 2000, through December 31, 2000.

Under Sections 7.2 and 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/7.2 and 22.4(a) (1998)), the Board adopts amendments to the Illinois regulations that are "identical in substance" to hazardous waste regulations that 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.* (1998)). The nominal timeframe of docket R01-23 includes federal RCRA Subtitle C amendments that USEPA adopted in the period July 1, 2000, through December 31, 2000.

Sections 13(c) and 22.4(a) provide for quick adoption of regulations that are identical in substance to federal regulations that USEPA adopts to implement Section 1421 of the federal Safe Drinking Water Act (SDWA) (42 U.S.C. § 300h (1998)). Similarly, Sections 7.2 and 22.4(a) provide 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 (1998)). Sections 13(c) and 22.4(a) also provide that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 and 5-40 (1998)) do not apply to the Board's adoption of identical-in-substance regulations. The federal UIC

regulations are found at 40 C.F.R. 144 through 148. The federal RCRA Subtitle C regulations are found at 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

As explained below, for reasons of administrative economy, the Board consolidated dockets R01-21 and R01-23. The Board adopted a proposal for public comment in this matter on February 15, 2001. Notices of Proposed Amendments appeared in the March 9, 2001 issue of the *Illinois Register*, at 25 Ill. Reg. 3415 (Part 738), 3421 (Part 720), 3434 (Part 721), 3487 (Part 728), and 3619 (Part 703). We received public comments on the proposal for public comment for a period of 45 days following the publication in the *Illinois Register*, until April 23, 2001. The rules that the Board adopts here contain only a few changes made in response to comments and suggestions of the Illinois Environmental Protection Agency (Agency) and the Joint Committee on Administrative Rules (JCAR).

The Board will delay filing the adopted amendments with the Office of the Secretary of State for 30 days following the date of this opinion. The delay is pursuant to an agreement between USEPA and the State of Illinois that allows USEPA additional time to review the adopted amendments before they become effective.

CONSOLIDATION OF DOCKETS R01-21 AND R01-23

By our opinion and order of February 15, 2001, the Board consolidated the R01-21 UIC update docket with the R01-23 RCRA Subtitle C update docket in the interests of administrative economy. Both dockets cover the same time period. The only federal amendments to the UIC regulations involved in docket R01-21 occurred on November 8, 2000, as a segment of a larger federal rulemaking to amend the RCRA Subtitle C regulations. We held that consolidation was warranted due to this close association with the RCRA Subtitle C hazardous waste regulations, and consolidation will expedite the amendment of all the regulations involved in both dockets.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

The following briefly summarizes the federal actions considered in this rulemaking.

Docket R01-21: July 1, 2000, through December 31, 2000, UIC Amendments

USEPA amended the federal UIC regulations on one occasion during the period July 1, 2000, through December 31, 2000. That action is summarized below:

65 Fed. Reg. 67068 (November 8, 2000)

USEPA adopted hazardous waste listings and land disposal restrictions (LDRs) for chlorinated aliphatics production wastes. Included were amendments to the federal UIC rules to implement the LDRs.

Docket R01-23: July 1, 2000, through December 31, 2000, RCRA Subtitle C
Amendments

USEPA amended the federal RCRA Subtitle C regulations on five occasions during the period January 1, 2000, through June 30, 2000. Each is summarized below:

65 Fed. Reg. 42292 (July 10, 2000)

USEPA adopted technical corrections to its September 30, 1999 (64 Fed. Reg. 52828) National Emission Standards for Hazardous Air Pollutants (NESHAPs) applicable to hazardous waste combustors and its June 19, 1998 (63 Fed. Reg. 33783) hazardous waste combustor rule. Included were corrections to the hazardous waste regulations segments of the rule.

65 Fed. Reg. 47323 (August 2, 2000)

USEPA adopted amendments to various of its regulations in order to update the address for its headquarters in the Washington, D.C. area. Included was an address in a segment of the hazardous waste regulations.

65 Fed. Reg. 67068 (November 8, 2000)

USEPA adopted hazardous waste listings and land disposal restrictions (LDRs) for chlorinated aliphatics production wastes.

65 Fed. Reg. 81373 (December 26, 2000)

USEPA amended a segment of its May 26, 1988 (63 Fed. Reg. 28602) Phase IV LDRs. USEPA is deferring the requirement that polychlorinated biphenyls (PCBs) be considered a constituent subject to treatment in soils that are hazardous waste because they exhibit the characteristic of toxicity due to the presence of metals. USEPA still requires treatment for all hazardous constituents other than PCBs.

Other Federal Actions Having an Ancillary Impact on the Illinois RCRA Subtitle
C Regulations

In addition to the amendments to the federal RCRA Subtitle C regulations, another set of 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 set of federal amendments to 40 C.F.R. 136 is as follows:

65 Fed. Reg. 81242 (December 22, 2000)

USEPA established a new part containing effluent limitations and pretreatment standards for sources in the centralized waste treatment category. Included were amendments to the CWA analytical methods, which are incorporated by reference into the hazardous waste regulations.

RCRA Subtitle C (Hazardous Waste) Amendment on Which No Board Action Is Necessary

Among the listed federal RCRA Subtitle C amendments examined by the Board is one on which no Board action is necessary in the present update docket R01-21/R01-23. That action was the August 2, 2000 amendment of 40 C.F.R. 265.1080(f) to update the address of the USEPA headquarters. No Board action is necessary because this federal provision is a site-specific rule that applies only to a West Virginia facility. Thus, there is no counterpart for 40 C.F.R. 1080(f) in the Illinois regulations.

Summary Listing of the Federal Actions Forming the Basis of the Board's Actions in These Consolidated Dockets

Based on the foregoing, the federal actions that form the basis for Board action in this update docket are as follows, in chronological order:

65 Fed. Reg. 42292 (July 10, 2000)	Technical corrections to the hazardous waste combustors NESHAPs and the hazardous waste combustor rule.
65 Fed. Reg. 67068 (November 8, 2000)	Hazardous waste listings and land disposal restrictions (LDRs) for chlorinated aliphatics production wastes.
65 Fed. Reg. 81242 (December 22, 2000)	Amendment of the 40 C.F.R. 136 analytical methods, which are incorporated by reference in 35 Ill. Adm. Code 720.111.
65 Fed. Reg. 81373 (December 26, 2000)	Amendment of the Phase IV LDRs.

PUBLIC COMMENTS

The Board received a single public comment during the comment period. That comment is described as follows:

PC 1 The Agency: "Response of the Illinois Environmental Protection Agency Pursuant to Public Comment Period for Proposed Identical-in-Substance Rules," dated April 20, 2001, from Susan J. Schroeder, Associate Counsel, Division of Legal Counsel (received April 23, 2001).

The Agency, in PC 1, points out minor errors in the proposed amendments. The Agency highlights misspellings of chemical names in Appendix H to Part 721 and Appendix C to Part 728 and a wrong cross-reference to "Part 268" in Appendix C to Part 728. That federal amendment and the Agency's comments are considered in greater detail in the discussion of the withdrawal of the chlorinated aliphatics waste rule at pages 7 and 8 below.

In addition to the public comments received, the Board received from JCAR on March 26, 2001, a document for Part 720 entitled "Line Numbered Version." To accompany this

document, JCAR submitted a companion document entitled “PCB Rules 35 IAC 720.” By these documents, JCAR suggests corrections to the text of the proposed amendments. The Board outlines these JCAR suggestions in Table 3, which appears on page 17 of this opinion. We discuss the merits of one of these suggestions in the discussion of particular housekeeping amendments that begins on page 10 of this opinion.

At this time, the Board is adopting the amendments, making the necessary changes made evident through the public comments. The Board will delay filing these adopted rules with the Secretary of State for 30 days after the date of this adoption, particularly to allow additional time for USEPA to review the adopted amendments before they are filed and become effective.

DISCUSSION

The following discussion begins with a description of the types of deviations the Board makes from the literal text of federal regulations in adopting identical-in-substance rules. It is followed by a discussion of 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 relevant *Federal Register* notices involved. Finally, this discussion closes with a description of the amendments and actions that are not directly derived from the federal actions.

General Revisions and Deviations from the Federal Text

In incorporating the federal rules into the Illinois system, some 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. 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, 2000 version. Thus, we have updated all citations to the 2000 version, adding references to later amendments using their appropriate *Federal Register* citation, where necessary. (The reference to 40 C.F.R. 268.41 will continue to cite the 1990 edition of the C.F.R., so that 35 Ill. Adm. Code 728.40(i) will continue to comport with corresponding 40 C.F.R. 268.40(i), which cites that older edition.)

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, spelling, 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 “must” for “shall”; 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,” “must” is used when an action is required by the rule, without regard to whether the action is required of the subject of the sentence or not. “Shall” is no longer used, since it is not used in everyday language. Thus, where a federal rule uses “shall,” the Board substitutes “must.” This is a break from our former practice where “shall” was used when the subject of a sentence has a duty to do something. “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.”

The Joint Committee on Administrative Rules 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 become open to amendment. We will further convert “EPA” used in federal text to “USEPA,” where USEPA is clearly intended.

The Board has assembled tables to aid in the location of these 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 beginning at page 11 of this opinion. There is no further discussion of most of the deviations and revisions elsewhere in this opinion.

Discussion of Particular Federal Actions

Amendments to the Hazardous Waste Combustor NESHAPs and Hazardous Waste Combustor Rule—Sections 703.280 and 721.138

On July 10, 2000 (65 Fed. Reg. 42292), USEPA adopted technical corrections to two of its prior actions. USEPA corrected its September 30, 1999 (64 Fed. Reg. 52828) National Emission Standards for Hazardous Air Pollutants (NESHAPs) applicable to hazardous waste combustors and its June 19, 1998 (63 Fed. Reg. 33783) hazardous waste combustor rule. The Board originally adopted the hazardous waste combustor rule in RCRA Update, USEPA Regulations (July 1, 1997, through December 31, 1997), RCRA Update, USEPA Regulations

(January 1, 1998, through June 30, 1998), UIC Update, USEPA Regulations (January 1, 1998, through June 30, 1998) (December 17, 1998), R98-21/R99-2/R99-7 (consolidated). The Board adopted the September 30, 1999 hazardous waste combustor NESHAPs in RCRA Subtitle C Update, USEPA Amendments (July 1, 1999, through December 31, 1999) (May 18, 2000), R00-13.

The July 10, 2000 federal corrections and amendments affect Clean Air Act (CAA) regulations and hazardous waste rules. The aspects of those corrections and amendments that directly affect the hazardous waste regulations are limited in scope. The Board incorporated those hazardous waste aspects without deviation from the federal text. To incorporate the July 10, 2000 amendments to the CAA regulations, the Board updated the version of 40 C.F.R. 63 incorporated by reference in 35 Ill. Adm. Code 720.111(b) to include the July 10, 2000 action. Persons interested in the details of the federal amendments should consult the July 10, 2000 *Federal Register* notice.

The Board requested public comment on our incorporation of the July 10, 2000 federal corrections to the hazardous waste combustor rule. We received no comments relating to this aspect of this update docket.

Chlorinated Aliphatics Production Waste Rule—Parts 721, 728, and 738

On November 8, 2000 (65 Fed. Reg. 67068), USEPA listed two wastes from the production of chlorinated aliphatic chemicals as hazardous. It further adopted associated LDRs for these wastes and a prohibition against underground injection of these wastes. USEPA simultaneously determined not to list four other wastes from this industry as hazardous. The newly-listed hazardous wastes are designated as K174 (certain wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer) and K175 (certain wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride as a catalyst). Persons interested in the details of the federal amendments should consult the November 8, 2000 *Federal Register* notice.

The Board incorporated the November 8, 2000 chlorinated aliphatics production wastes rule with minimal deviation from the federal text. We reworded segments of the K174 waste listing in Section 721.132 for enhanced clarity. In the listings of hazardous constituents in Appendix G to Part 721 and Table T to Part 728, the Board has changed to wording to consistently use the chemical name for the contaminants with the abbreviation or acronym in parentheses for K0174 waste. Many other, less significant deviations from the literal text of the federal rule are listed and described in the table that begins at page 10 of this opinion.

The Board requested public comment on our incorporation of the November 8, 2000 chlorinated aliphatics production wastes rule. We received substantive comments from the Agency in PC 1. The revisions resulting from these comments are outlined in detail in Table 3, which appears on page 17 of this opinion. The Board specifically notes a certain error in the text that arose from the text of the November 8, 2000 federal amendments on which the present

amendments are based. In Appendix H to Part 721, we have corrected the spellings of the chemical name “octachlorodibenzofuran,” as detailed in Table 3.

Update to the Clean Water Act Analytical Methods Incorporated by Reference—Section 720.111

On December 22, 2000 (65 Fed. Reg. 81242), USEPA adopted wastewater effluent limitation guidelines, pretreatment standards, and new source performance standards for the centralized waste treatment point source category. One segment of this rulemaking was the amendment of Clean Water Act analytical methods, Methods 625 and 1625, in 40 C.F.R. 136, Appendix A. Method 625 is the analysis of base/neutral and acid organics in wastewater by gas chromatography, and Method 1625 is the analysis of semivolatile organic compounds by capillary column gas chromatography-mass spectrometry. The Board has incorporated the methods of 40 C.F.R. 136 into the hazardous waste regulations by reference in Section 720.111(b).

The Board has incorporated the federal amendments into the Illinois hazardous waste regulations by updating the incorporation of 40 C.F.R. 136 by reference. This required the Board to update the version of 40 C.F.R. 136 incorporated by reference at 35 Ill. Adm. Code 720.111 by adding a reference to the December 22, 2000 *Federal Register* notice of adopted amendments at 65 Fed. Reg. 3008. Persons interested in the substance of the underlying federal action should refer to the notice that appeared in the December 22, 2000 issue of the *Federal Register*.

The Board requested public comment on our incorporation of the December 22, 2001 federal revisions to Methods 625 and 1625 into the Illinois hazardous waste regulations. We received no comments relating to this aspect of this update docket.

Deferral of the Phase IV LDRs for PCBs—Sections 728.132 and 728.149 and Appendix C and Table U to Part 728

On December 26, 2000 (65 Fed. Reg. 81373), USEPA temporarily deferred a segment of a prior action. USEPA deferred the designation of PCBs as a constituent subject to treatment (CST) in soils contaminated with certain hazardous wastes. Specifically, the amendments temporarily defer the requirement that PCBs be considered a CST in wastes that exhibit the toxicity characteristic for metals (USEPA hazardous waste numbers D004 through D011). USEPA initially adopted the Phase IV LDRs on May 26, 1998 (63 Fed. Reg. 28602). The Board originally adopted the Phase IV LDR rule in RCRA Update, USEPA Regulations (July 1, 1997, through December 31, 1997), RCRA Update, USEPA Regulations (January 1, 1998, through June 30, 1998), UIC Update, USEPA Regulations (January 1, 1998, through June 30, 1998) (December 17, 1998), R98-21/R99-2/R99-7 (consolidated). Persons interested in the details of the federal amendments should consult the June 8, 2000 *Federal Register* notice.

The Board incorporated the December 26, 2000 deferral with minimal deviations from the federal text. None of the deviations is substantial. The table that begins on page 12 of this opinion lists and details all the deviations from the text of federal amendments.

The Board requested public comment on our incorporation of the December 26, 2000 deferral of the designation of PCBs as a CST in soils. We received substantive comments from the Agency in PC 1. These comments are outlined in detail in Table 3, which appears on pages 16 and 17 of this opinion. The Board specifically notes certain errors in the text that arose from the text of the November 8, 2000 federal amendments on which the present amendments are based. In Appendix C to Part 728, we have corrected the spellings of various chemical names and corrected the cross-reference to "Part 728" as detailed in Table 3.

The correction of one chemical name warrants specific mention in this segment of the discussion. Appendix III to 40 C.F.R., from which Appendix C 35 Ill. Adm. Code 728 derives, lists "hexachlorophene" as entry 20 under the "semivolatiles" segment of the list and "hexachlorpropene" as entry 21. The Board believes that USEPA did not intend duplicate entries for "hexachlorpropene," so we infer that USEPA intended "hexachlorophene" as entry 20. We note that hexachlorophene is listed in the table to 40 C.F.R. 261.138 and corresponding Appendix Y to 35 Ill. Adm. Code 721, and it is a hazardous constituent listed in 40 C.F.R. 261, Appendix VIII and corresponding Appendix H to 35 Ill. Adm. Code 721. Since USEPA did not specifically discuss the entries in Appendix III when it added this list to Part 728, the preamble discussion in the December 26, 2000 issue of the *Federal Register* did not resolve this issue.

If "hexachlorophene" is not what USEPA intended, and USEPA promptly notifies us of that fact during the 30-day delay in filing these amendments, the Board can correct this entry before filing new Appendix C to Part 728 with the Office of the Secretary of State, which will finalize them. If USEPA notifies us of a contrary intent after we have filed Appendix C, the Board can correct this entry in some future RCRA Subtitle C update proceeding.

Agency or Board Action

Section 7.2(a)(5) of the Act requires the Board to specify those portions of the program over which USEPA will retain decision making authority. Based on the general division of functions within the Act and other Illinois statutes, the Board is also to specify which State agency is to make decisions.

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 some identical-in-substance rules, certain decisions pertaining to a permit application are not appropriate for the Agency to consider. In determining the general division of authority between the Agency and the Board, the following factors should be considered:

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 decisions: 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). There often are differences in the nomenclature for these decisions between the USEPA and Board regulations.

Discussion of Particular Housekeeping Amendments

Two specific housekeeping amendments that the Board adopts in this present docket warrant specific discussion. One is the updating of the version of the Department of Defense (DOD) document, “DOD Ammunition and Explosives Safety Standards,” incorporated by reference in Section 720.111(a). The other is the removal of the incorporation of section 3004 of RCRA by reference in Section 720.111(c).

As to the version of “DOD Ammunition and Explosives Safety Standards” incorporated by reference, the Board will reference a more recent version of this document than was referenced in the past. While the corresponding federal rules still reference the older version of the document, close examination of the DOD document itself warrants use of the updated reference. During the public comment period, JCAR pointed out to the Board that in July 1999 the DOD published a newer version of “DOD Ammunition and Explosives Safety Standards.” We discovered in the course of examining the July 1999 DOD document that it expressly supersedes the older, 1995 version. This means that DOD personnel will automatically refer to the newer version, and requiring the use of the 1995 version would create inconsistency.

The Board is also removing an outmoded and unnecessary incorporation of section 3004 of RCRA by reference. Initially, we note that the *United States Code* citation for this provision is incorrect; the appropriate citation should read “42 USC 6924” for section 3004 of RCRA. In considering whether to correct this citation, the Board has examined all occurrences of citations to section 3004 of RCRA throughout Subtitle G. We found citations to section 3004 of RCRA at the following Sections: 703.304(f), 724. 321(f)(1) Board note, 724.351(f)(1), 724.401(f)(1) Board note, 724.654(g), 724.980(b)(5), 725. 321(c)(1) Board note, 725.401(c)(1)

Board note, 725.980(b)(5), 726.302(d) and (d)(2), and 728.103(a). None of these citations imposes or imports any of the requirements of section 3004 of RCRA into the Illinois regulations; each citation is a mere reference to the federal requirements of section 3004 or to requirements adopted by USEPA pursuant to section 3004.

Under these circumstances, where citations to federal requirements do not incorporate those requirements into the Illinois regulations, the Board does not believe that the incorporation of the federal requirement is necessary or desirable. For this reason, rather than correct the citation to the *United States Code*, the Board proposes removal of the incorporation of section 3004 of RCRA by reference in Section 720.111(c).

The Board requested public comment on our proposed removal of the incorporation by reference. We received no comments relating to this aspect of this update docket.

Tabulations of Deviations from the Federal text and
Corrections to and Clarifications of the Base Text

Table 1 below list numerous corrections and amendments that are not based on current federal amendments. Table 1 (beginning immediately below) includes deviations made in this final order from the verbatim text of the federal amendments. Table 2 (beginning after table 1 immediately below) contains corrections and clarifications that the Board made in the base text involved in this proposal. The amendments listed in this table are housekeeping amendments not directly derived from the current federal amendments. Table 3 (beginning on page 16 below) is a listing of revisions made to the text of the amendments from that proposed and set forth in the Board’s opinion and order of February 15, 2001. Table 3 indicates the changes made, as well as the source that suggested each of the changes. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning at page 5 of this opinion.

Table 1:
Deviations from the Text of the Federal Amendments

Illinois Section	40 C.F.R. Section	Revision(s)
721.132 “K174”	261.32	Changed the roman numeral designations for sub-segments of the listing to Arabic numerals; moved the extended prepositional phrase “upon . . . ethylene dichloride” to the beginning of the sentence, offset by a comma as a parenthetical; changed to the singular “the respondent . . . it meets”; moved the restrictive relative clause “that . . . were met” to immediately follow the word “documentation” to which it relates; changed “owner/operator” to “owner or operator”

721.Appendix G "K174"	40 CFR 261, Appendix VII	Changed all words except the first chemical name and the abbreviated names to lower-case; placed automatic hyphens in appropriate places in the long chemical names; removed the parentheses from chemical names and placed all abbreviated names in parentheses (seven times)
721.Appendix H	40 CFR 261, Appendix VIII	Added automatic hyphenation to the chemical names "octachlorodibenzo-p-dioxin" and "octachlorodibenzofuran"; corrected the spelling of "octachlorodibenzofuran"
728.132 heading	268.32	Changed the heading to title case
728.132(a)	268.32(a)	Removed the past effective date statement "effective December 26, 2000"; changed "D004-D011" to "USEPA hazardous waste numbers D004 through D011"
728.132(b)	268.32(b)	Added "any of the following conditions is fulfilled"
728.132(b)(1)	268.32(b)(1)	Added "low-halogenated . . . standards:" as a subsection heading
728.132(b)(1)(B)	268.32(b)(1)(ii)	Changed "EPA hazardous waste numbers D004-D011" to "USEPA hazardous waste numbers D004 through D011"
728.132(b)(2)	268.32(b)(2)	Added "low-halogenated . . . soil:" as a subsection heading
728.133 heading	268.33	Changed the heading to title case
728.133(a)	268.33(a)	Removed the effective date statement "effective May 8, 2001," which will be past prior to the effective date of this Section; changed "EPA Hazardous Waste Numbers K174, and K175" to "USEPA hazardous waste numbers K174 and K175"
728.133(b)	268.33(b)	Added "any of the following conditions is fulfilled"
728.133(b)(5)	268.33(b)(5)	Changed "these wastes covered by the extension" to "those wastes covered by the extension"
728.133(c)	268.33(c)	Changed "requirements of part 268" to "requirements of this Part 728"
728.133(d)	268.33(d)	Changed "K175 wastes" to "USEPA hazardous waste numbers K175 wastes"; added a comma before "unless" to offset a parenthetical
728.133(d)(1)	268.33(d)(1)	Changed "Subtitle C" to "RCRA Subtitle C"
728.133(d)(2)	268.33(d)(2)	Changed "Subtitle C" to "RCRA Subtitle C"

728.149(d)	268.49(d)	Corrected “PCBs are not constituent” to “PCBs are not constituents”; changed “which” to “that” for a restrictive relative clause
728.Appendix C	268, Appendix III	Changed “HOCs” to “halogenated organic compounds (HOCs)” to define the abbreviation; changed “EPA” to “USEPA”; Changed “appendix III” to “this Appendix C”; reformatted the entries of chemical names into dual columns; corrected the spelling of “trichloroethene”; corrected the spelling of “2-chlorophenol”; corrected the spelling of “hexachloropropene”; corrected the spelling of “hexachlorophene”; placed automatic hyphenation in the appropriate location in the chemical name “tris(2,3-dibromopropyl)-phosphate”
728.Table T “F039”	268.40 table	Added automatic hyphenation to the chemical names “1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin”, “1,2,3,4,6,7,8-heptachlorodibenzofuran”, “1,2,3,4,7,8,9-heptachlorodibenzofuran”, and “1,2,3,4,6,7,8,9-octachlorodibenzo-p-dioxin”
728.Table T “K174”	268.40 table	Changed to singular “wastewater treatment sludge”; added automatic hyphenation to the long chemical names; removed the parentheses from chemical names and placed all abbreviated names in parentheses (five times)
728.Table T note 12	268.40 table	Changed “K175 wastes that have” to singular “USEPA hazardous waste number K175 waste that has”; added “either . . . facilities”; changed the subdivision designations from Arabic numerals to lower-case letters; changed “Subtitle C” to “RCRA Subtitle C”
728.Table U	268(a) table	Added automatic hyphenation to the chemical names “heptachlorodibenzo-p-dioxin”, “heptachlorodibenzofuran”, “octachlorodibenzo-p-dioxin”, and “octachlorodibenzofuran”
728.Table U note 8	268(a) table	Changed “D004-D014” to “USEPA hazardous waste numbers D004 through D011”
738.118(j)	148.18(j)	Removed the effective date statement “effective May 8, 2001,” which will be past prior to the effective date of this Section; changed “EPA Hazardous Waste Numbers” to “USEPA hazardous waste numbers”

738.118(k)	148.18(k)	Added “under any of the following circumstances”
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Table 2:
Board Housekeeping Amendments

Section	Source	Revision(s)
703.232	JCAR	Changed “of in 40 CFR 63” to “in 40 CFR 63”
703.232(b)(1)	Board	Changed “shall” to “must” (twice)
703.232(b)(1)(B)	Board	Changed “shall” to “must”
703.232(b)(2)	Board	Changed “shall” to “must” (twice)
703.232(b)(3)(A)	Board	Changed “shall” to “must”
703.232(b)(3)(B)	Board	Changed “shall” to “must”
703.232(b)(3)(C)	Board	Changed “shall” to “must”
703.232(b)(4)	Board	Changed “shall” to “must” (twice)
703.232(c)	Board	Changed “shall” to “must”
703.232(c)(1)	Board	Added “the following”
703.232(c)(2)	Board	Added “the following”
703.232(c)(3)	Board	Added “the following”
703.232(d)(2)	Board	Changed “shall” to “must”; changed “finds that” to “finds as follows”
703.232(d)(2)(A)	Board	Added “that”
703.232(d)(2)(B)	Board	Added “that”
703.232(d)(2)(C)	Board	Added “that”
703.232(d)(2)(D)	Board	Added “that”
703.232(d)(3)	Board	Changed “shall” to “must”
703.232(d)(3)(B)	Board	Added “the following”
703.232(d)(4)	Board	Changed “shall” to “must”
703.232(e)	Board	Changed “shall” to “must”
703.232(f)	Board	Changed “shall” to “must”
703.232(f)(2)	Board	Added “the following determinations” offset as with a comma
703.232(g)	Board	Changed “shall” to “must” (four times)
703.232 Board note	Board	Updated the citation to the 2000 edition of the <i>Code of Federal Regulations</i>
703.280(a)	Board	Added two spaces between the two sentences
703.280(b)	Board	Added two spaces between the two sentences
703.280(c)	Board	Added two spaces between the two sentences
703.280(d)(1)	Board	Added two spaces between two sentences; changed “shall” to “must”
703.280(d)(2)	Board	Changed “shall” to “must” (twice); changed “subsection (d)(1), above,” to “subsection (d)(1) of this Section”; added two spaces between two sentences

703.280(d)(2)(A)	Board	Added two spaces between two sentences (twice)
703.280(e)(1)	Board	Added two spaces between two sentences
703.280(e)(2)(A)	Board	Added “the following”
703.280(e)(2)(B)	Board	Added “the following”
703.280(e)(2)(C)	Board	Changed “shall” to “must”; added two spaces between two sentences
703.280(e)(3)	Board	Changed “shall” to “must” (twice); added two spaces between two sentences; added “as follows”
703.280(e)(3)(A)	Board	Changed “the” to “that the”
703.280(e)(3)(B)	Board	Changed “the” to “that the”
703.280(e)(4)	Board	Changed “shall” to “must”; added a comma before “provided” to offset a parenthetical; removed an unnecessary comma separating a two-element series; added “either of the following is true”
703.280(f)(1)	Board	Changed “shall” to “must” (twice); added two spaces between two sentences
703.280(g)(1)	Board	Added “each of the following is true”
703.280(g)(1)(E)	Board	Added two spaces between two sentences
703.280(h)	Board	Added two spaces between two sentences; added “each of the following is true”
703.280(i)	Board	Added two spaces between two sentences; changed “shall” to “must” (twice)
703.280(j)(2)	Board	Changed “shall” to “must”
703.232 Board note	Board	Updated the citation to the 2000 edition of the <i>Code of Federal Regulations</i> , replacing the <i>Federal Register</i> citation with a later update
720 table of contents	JCAR	Changed the Subpart B heading to “Definitions and References”
720.Subpart B heading	JCAR	Changed the heading to “Definitions and References”
720.111(a) “USDOD”	JCAR	Corrected the title of “DOD Ammunition and Explosives Safety Standards” and updated the version of this document incorporated by reference
720.111(a) “NTIS” “APTI Course 415”	JCAR	Added the hyphen to “PB80-208895” for consistency with the other listed documents
720.111(a) “USEPA”	JCAR	Corrected the street name in the address to “Jefferson Davis Highway”; corrected the ZIP code to “22202”
720.111(b)	Board	Updated the citation to the 2000 edition of the <i>Code of Federal Regulations</i> (17 times)
720.111(c)	Board	Removed the incorporation of section 3004 of RCRA
721.138(c)(1)(A)(ii)	Board	Changed “shall” to “must”
721.138(c)(2)	Board	Changed “shall” to “must”
721.138(c)(6)	Board	Changed “shall” to “must”
721.138(c)(7)	Board	Changed “shall” to “must” (three times)

721.138(c)(7)(B)(vi)	Board	Changed “which” to “that” for a restrictive relative clause
721.138(c)(7)(C)	Board	Changed “shall” to “must”
721.138(c)(8)(E)	Board	Changed “shall” to “must”
721.138(c)(8)(H)	Board	Changed “shall” to “must”
721.138(c)(8)(I)	Board	Changed “shall” to “must”
721.138(c)(11)	Board	Changed “shall” to “must”
728.149(a)	Board	Changed “shall” to “must”
728.149	Board	Added a Board note to indicate the source of this provision
728.Table T Board note	Board	Updated the citation to the 2000 edition of the <i>Code of Federal Regulations</i> , replacing the <i>Federal Register</i> citation with a later update
728.Table U Board note	Board	Updated the citation to the 2000 edition of the <i>Code of Federal Regulations</i> , replacing the <i>Federal Register</i> citation with a later update

Table 3:
Revisions to the Text of the Proposed Amendments in Final Adoption

Section Revised	Source(s) of Revision(s)	Revision(s)
720 table of contents	JCAR	Changed the Subpart B heading to “Definitions and References”
720.Subpart B heading	JCAR	Changed the heading to “Definitions and References”
720.111(a) “USDOD”	JCAR	Corrected the title of “DOD Ammunition and Explosives Safety Standards” and updated the version of this document incorporated by reference
720.111(a) “NTIS” “APTI Course 415”	JCAR	Added the hyphen to “PB80-208895” for consistency with the other listed documents
720.111(a) “USEPA”	JCAR	Corrected the street name in the address to “Jefferson Davis Highway”; corrected the ZIP code to “22202”
721.Appendix H	Agency	Corrected the spelling of “octachlorodibenzofuran”
728.Appendix C	Agency	Corrected “Part 268” to “Part 728”
728.Appendix C	Agency	Corrected the spelling of “trichloroethene”; corrected the spelling of “2-chlorophenol”; corrected the spelling of “hexachloropropene”; corrected the spelling of “hexachlorophene”

HISTORY OF RCRA SUBTITLE C AND UIC ADOPTION
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY OR BOARD ACTION
EDITORIAL CONVENTIONS

It has previously been the practice of the Board to include an historical discussion in its RCRA Subtitle C and UIC identical-in-substance rulemaking proposals. However, in the last RCRA Subtitle C update docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 1999, through December 31, 1999) (May 18, 2000), R00-13, the Board indicated that it would cease this practice. Therefore, for a complete historical summary of the Board's RCRA Subtitle C and UIC rulemakings and programs, interested persons should refer back to the May 18, 2000 opinion and order in R00-13.

The historical summary contains all Board actions taken to adopt and maintain these programs since their inception and until May 18, 2000. 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 during that time frame. As necessary the Board will continue to update the historical summary as a segment of the opinion in each RCRA Subtitle C and UIC update docket, but those opinions will not repeat the information contained in the opinion of May 18, 2000 in docket R00-13.

The following summarizes the history of the Illinois RCRA Subtitle C hazardous waste and UIC programs since May 18, 2000:

History of RCRA Subtitle C and State Hazardous Waste Rules Adoption

The Board has adopted and amended the RCRA Subtitle C hazardous waste rules in the following docket since May 18, 2000:

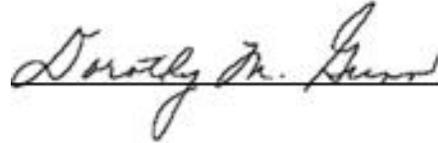
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|--------|---|
| R00-13 | <u>RCRA Subtitle C Update, USEPA Regulations (July 1, 1999, through December 31, 1999)</u> (May 18, 2000), R00-13; published at 24 Ill. Reg.9443 (July 7, 2000), effective June 20, 2000. |
| R01-3 | <u>RCRA Subtitle C Update, USEPA Regulations (January 1, 2000, through June 30, 2000)</u> (December 7, 2000), R01-3; published at 25 Ill. Reg. 1266 (January 26, 2001), effective January 11, 2001. |
| R01-23 | <u>RCRA Subtitle C Update, USEPA Regulations (July 1, 2000, through December 31, 2000)</u> , R00-13. (This docket; consolidated with UIC update docket R01-21.) |

History of UIC Rules Adoption

The Board has adopted and amended Underground Injection Control (UIC) regulations in the following dockets since May 18, 2000:

- R00-11 UIC Update, USEPA Regulations (July 1, 1999, through December 31, 1999) (December 7, 2000), R00-11; published at 25 Ill. Reg. 18585 (December 22, 2001), effective December 7, 2001. (Consolidated with docket R01-1.)
- R01-1 UIC Update, USEPA Regulations (January 1, 2000, through June 30, 2000) (December 7, 2000), R01-1; published at 25 Ill. Reg. 18585 (December 22, 2001), effective December 7, 2001. (Consolidated with docket R00-11.)
- R01-21 UIC Update, USEPA Regulations (July 1, 2000, through December 31, 2000), R00-13. (This docket; consolidated with RCRA Subtitle C update docket R01-23.)

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 May 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board