

ILLINOIS POLLUTION CONTROL BOARD  
July 24, 1997

IN THE MATTER OF: )  
 )  
RCRA UPDATE, USEPA REGULATIONS ) R96-10  
(July 1 through December 31, 1995) ) (Identical-in-Substance Rules)

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IN THE MATTER OF: )  
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UIC UPDATE, USEPA REGULATIONS ) R97-3  
(January 1 through June 30, 1996) ) (Identical-in-Substance Rules)

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IN THE MATTER OF: )  
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RCRA UPDATE, USEPA REGULATIONS ) R97-5  
(January 1 through June 30, 1996) ) (Identical-in-Substance Rules)

Proposed Rule. Proposal for Public Comment.

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

Under Section 13(c) and 22.4(a) of the Environmental Protection Act (Act), 415 ILCS 5/13(c) & 22.4(a) (1996), the Board today proposes amendments to the underground injection control (UIC) and Resource Conservation and Recovery Act of 1976 Subtitle C (RCRA Subtitle C) hazardous waste regulations at 35 Ill. Adm. Code 702, 703, 720 through 726, 728, 730, 738, and 739.

Section 22.4(a) provides for quick adoption of regulations that are "identical in substance" to federal regulations adopted by USEPA to implement Sections 3001 through 3005 of RCRA (42 U.S.C. §§ 6921-6925 (1996)) and that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA; 5 ILCS 100/5-35 & 5-40 (1996)) shall not apply. Section 13(c) similarly provides with respect to underground injection control regulations adopted by USEPA pursuant to Section 1421 of the Safe Drinking Water Act (SDWA; 42 U.S.C. § 300h (1996)). Because this rulemaking is not subject to Section 5 of the APA, it is not subject to first notice or to second notice review by the Joint Committee on Administrative Rules (JCAR). The federal UIC regulations are found at 40 CFR 146 through 148. The federal RCRA Subtitle C regulations are found at 40 CFR 260 through 268, 270 through 271, and, more recently, 273 and 279.

This opinion supports an 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 for 45 days after the date of publication to receive public comments.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

By an order dated October 17, 1996, the Board consolidated the one UIC and two RCRA Subtitle C dockets involved in this proceeding. The three separate dockets are the

following: R96-10, which includes federal RCRA Subtitle C amendments that occurred during the period July 1 through December 31, 1995; R97-3, which includes federal UIC amendments that occurred in the period January 1 through June 30, 1996; and R97-5, which includes the federal RCRA Subtitle C amendments that occurred in the period January 1 through June 30, 1996. The primary reasons for this consolidation were that the subject matters are closely related and that the Board wished to expedite consideration of all the amendments involved. As a result of the consolidation, the federal amendments that are included essentially span an entire year.

Further, as explained in detail below, the proposal includes certain later federal amendments from the time-frames of reserved RCRA Subtitle C dockets R97-21, which includes federal amendments during the period July 1 through December 31, 1996, and R98-5, which is for the period January 1 through June 30, 1997. The principal reason for inclusion of these later amendments is to incorporate later federal corrections and amendments that made the instant Sections under amendment less stringent. The intent is to avoid having the Illinois RCRA Subtitle C regulations inadvertently become more stringent than the corresponding federal rules until the Board can act in dockets R97-21 and R97-5.

#### Docket R96-10: July 1 through December 31, 1995 RCRA Subtitle C Amendments

USEPA amended the federal RCRA Subtitle C regulations several times during the period July 1 through December 31, 1995, summarized as follows:

<u>Federal Action</u>	<u>Summary</u>
July 7, 1995 (61 Fed. Reg. 35452)	<u>Corrections to Subpart CC rules.</u> USEPA corrected the docket number in the <u>Federal Register</u> preamble discussion of December 6, 1994.
July 11, 1995 (61 Fed. Reg. 35703)	<u>Addition of test method for testing biodegradability of absorbent materials.</u> USEPA added a test method for testing the biodegradability of sorbent materials for the purposes of the landfill disposal ban imposed on containerized liquid hazardous waste absorbed in such materials.
August 14, 1995 (61 Fed. Reg. 41817)	<u>Notice of revised interpretation of carbamate rule.</u> USEPA revised its interpretation of its carbamate rules to determine that wastes from the off-site production of non-carbamate intermediates that are used exclusively in carbamate production are not subject to the carbamate rule.
September 29, 1995 (61 Fed. Reg. 50426)	<u>Partial Stay of Subpart CC rules.</u> USEPA stayed the organic material emission from rules of the hazardous waste treatment, storage, and disposal facility standards as they apply to emissions from tanks, containers, and surface impoundments containing organic peroxide manufacturing waste.

- October 23, 1995  
(61 Fed. Reg. 54311)      Correction of hazardous waste delisting for entity with an Illinois facility. USEPA restored the text of the Enviroite Corp. delisting inadvertently deleted when USEPA intended to amend the delisting to delete the waste from a single source (in Connecticut) on February 8, 1994.
- October 30, 1995  
(61 Fed. Reg. 55202)      Stay of used oil mixtures rule. USEPA stayed the provision of the used oil rules that pertains to mixtures of used oil and hazardous waste. That provision regulated mixtures of used oil and characteristic hazardous waste (Subpart C waste) or waste that was listed because it exhibited a characteristic (Subpart D waste) under the used oil regulations, rather than under the generally-applicable hazardous waste regulations. Thus, the stay has the effect of making these wastes subject to more stringent regulations.
- November 13, 1995  
(61 Fed. Reg. 56952)      Delayed effective date for Subpart CC rules. USEPA delayed the effective date of the organic material emission from rules of the hazardous waste treatment, storage, and disposal facility standards as they apply to emissions from tanks, containers, and surface impoundments for an additional six months, until June 6, 1996.
- December 11, 1995  
(61 Fed. Reg. 63417)      Amendments to permitting procedural requirements. USEPA amended the RCRA Subtitle C permitting procedures to "improve the process for permitting facilities that store, treat, or dispose of hazardous wastes by providing earlier opportunities for public involvement in the process and expanding public access to information throughout the permitting process and the operational lives of facilities."

The Board will not need to take action based on all of the federal RCRA Subtitle C amendments that occurred during the period of July 1 through December 31, 1995. The Board dealt with the federal actions of July 7, September 29, and November 13, 1995 in the prior RCRA Subtitle C update docket, R95-20, adopted June 20, 1996. No further action is required of the Board on those matters. Further, for various reasons explained below, the Board will need to take no further action than to note the federal actions of August 14 and October 23 and 30, 1995. The Board has not yet taken action on the federal actions of July 11 and December 11, 1995, and these federal revisions require Board action under docket R96-10.

In addition to the direct revisions to the RCRA Subtitle C regulations during the time period of docket R96-10, USEPA amended the federal water pollution control regulations three times during the period July 1 through December 31, 1995 in a way that could affect the Illinois RCRA Subtitle C rules. These federal actions revised analytical methods of 40 CFR 136, as follows:

Federal ActionSummary

August 2, 1995  
(61 Fed. Reg. 39586)

USEPA added a disk extraction method for testing wastewater for chlorinated pesticides and PCBs.

August 28, 1995  
(61 Fed. Reg. 44670)

USEPA added three methods for determination of total Kjeldahl nitrogen (TKN) in wastewater.

October 16, 1995  
(61 Fed. Reg. 53529)

USEPA added whole effluent toxicity testing to the approved methods.

The methods codified in 40 CFR 136 are incorporated by reference at Section 720.111 of the Illinois RCRA Subtitle C rules for the purposes of the hazardous waste and underground injection control regulations. The Board will update the incorporations as a matter of routine, by updating to the 1996 edition of the Code of Federal Regulations. This is despite the fact that we do not believe that these new methods will affect either the RCRA Subtitle C or UIC programs.

Docket R97-5: January 1 through June 30, 1996 RCRA Subtitle C Amendments

USEPA Amended its RCRA Subtitle C regulations several more times during the six-month time period of docket R97-5. The federal actions during this period of January 1 through June 30, 1996 are summarized as follows:

Federal ActionSummary

February 9, 1996  
(61 Fed. Reg. 4903)

Subpart CC organic material emissions standards technical amendments. USEPA made clarifying and corrective amendments to the text of the December 6, 1994 Subpart CC organic material emission standards applicable to tanks, containers, and surface impoundments containing hazardous waste.

March 15, 1996  
(61 Fed. Reg. 10684)

Relating to federal authorization of Illinois program. USEPA authorized segments of the Illinois RCRA Subtitle C program. Included are the "non-HSWA Cluster VI," "HSWA Cluster II," and RCRA Clusters I-III" rules--i.e., rules adopted by USEPA between July 1, 1989 and June 30, 1993. The Board adopted these program amendments in dockets R90-2, R90-11, R91-1, R91-13, R91-26, R92-1, and R93-4 between July 3, 1990 and November 22, 1993.

March 26, 1996  
(61 Fed. Reg. 13103)

Correction to exclusion for recovered oil reinjected into refining process. USEPA corrected an error in its July 28, 1994 exclusion of recovered oil from the definition of solid waste.

- April 8, 1996  
(61 Fed. Reg. 15596)
- Phase III land disposal restrictions (LDRs). USEPA adopted treatment standards for carbamate pesticide wastes and primary aluminum production wastes. USEPA further amended the treatment standards for land disposal of wastes exhibiting a characteristic of hazardous waste to require not only the removal of the applicable characteristic(s), but also any underlying hazardous waste constituents.
- April 8, 1996  
(61 Fed. Reg. 15662)
- Phase III LDR partial withdrawal and amendment. USEPA withdrew those segments of the contemporaneous amendments accompanying the Phase III LDRs that derived from the decision in Chemical Waste Management, Inc. v. EPA, 976 F.2d 2 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 1057, 113 S. Ct. 1961 (1993). Adoption of the Land Disposal Program Flexibility Act of 1996, Pub. L. 104-119, effective March 26, 1996, effectively overrode that decision. USEPA also amended segments of the September 19, 1994 Phase II LDRs that were also overruled by Pub. L. 104-119.
- April 12, 1996  
(61 Fed. Reg. 16309)
- Hazardous waste import and export regulations. USEPA amended the federal rules to incorporate identification of wastes (green, red, and amber) that are subjected to the graduated system of import and export controls under the Organization for Economic Cooperation and Development (OECD) Council Decision C(92)39.
- April 30, 1996  
(61 Fed. Reg. 19117)
- Phase III LDR corrections (two separate actions). In one action, USEPA corrected the effective dates set forth in the Federal Register notice for its Phase III LDR rules.
- June 5, 1996  
(61 Fed. Reg. 28508)
- Subpart CC organic material emission standards amendment to effect partial stay. USEPA further postponed implementation of the December 6, 1994 Subpart CC organic material emissions requirements until October 6, 1996.
- June 28, 1996  
(61 Fed. Reg. 33680)
- Phase III LDR corrections. USEPA made technical corrections to the April 8, 1996 Phase III LDRs and partial withdrawal.
- June 28, 1996  
(61 Fed. Reg. 33691)
- Used oil standards notice of judicial vacatur of administrative stay of used oil mixture rule. USEPA amended the September 10, 1992 used oil mixtures rule in response to a January 19, 1996 vacatur in Safety-Kleen Corp. v. EPA, No. 92-1629, slip op. (D.C. Cir. Jan. 19, 1996) of its October 30, 1995 administrative stay of the rule.

As with the previous docket time-frame, the Board will not need to act on certain of the January 1 through June 30, 1996 federal RCRA Subtitle C amendments. The Board dealt with the federal amendments of June 5, 1996 in docket R95-20, on June 20, 1996. Further, the March 15, 1996 action related to federal authorization of the Illinois RCRA Subtitle C program, which the Board notes in this opinion, but which requires no further action. Finally, as discussed below, the June 28, 1996 federal action needs no action because it reversed the federal amendments of October 30, 1995, described above.

Summarizing the federal actions of the July 1 through December 31, 1995 time-frame of docket R96-10, the Board must act with regard to the federal actions of July 11, August 2 and 28, October 16, and December 11, 1995. Summarizing the federal actions of the January 1 through June 30, 1996 time-frame of docket R97-5, the Board must act with regard to the federal actions of February 9, March 26, April 8, April 12, April 30, and June 28, 1996.

### Later Federal Actions

As mentioned above, a small number of federal amendments to the RCRA Subtitle C regulations directly affect the subject matter involved in this docket by virtue of the amendments included in R96-10 and R97-5. These include the following actions that would normally await action under reserved RCRA Subtitle C update docket, R97-21, for the period July 1 through December 31, 1996. These include the following federal actions:

<u>Federal Action</u>	<u>Summary</u>
July 10, 1996 (61 Fed. Reg. 36419)	<u>Corrections to the Phase III LDRs.</u> USEPA made a minor correction to one of its April 8, 1996 actions.
August 26, 1996 (61 Fed. Reg. 43923)	<u>Emergency revision of the Phase III LDRs.</u> USEPA adopted an emergency amendment to make technical corrections to the carbamate waste provisions included with the Phase III LDRs.
November 25, 1996 (61 Fed. Reg. 59931)	<u>Final Amendments to the "Subpart CC" rules.</u> USEPA adopted final amendments to its December 6, 1994 organic material emissions rules applicable to hazardous waste tanks, containers, and surface impoundments. (USEPA had previously amended and stayed the effective date of various aspects of the rules, and these final amendments were intended to amend and clarify the rules before they became effective on December 6, 1996. Many of the amendments relax the prior standards.)

The actions included in the present consolidated docket that would normally await action under the reserved RCRA Subtitle C update docket R98-5, for the period January 1 through June 30, 1997, are the following:

January 14, 1997 (62 Fed. Reg. 1991)	<u>Emergency extension of the national capacity variance for K088 wastes.</u> USEPA extended the national capacity variance for K088 wastes for six months, until July 8,
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1997.

February 19, 1997  
(62 Fed. Reg. 7501)

Corrections to the Phase III LDRs. USEPA made a number of corrections to the hazardous waste treatment standards and universal treatment standards tables as they appeared in the April 8 through August 26, 1996 actions amending these tables.

May 12, 1997  
(62 Fed. Reg. 25997)

Adoption of the Phase IV LDRs. USEPA adopted the Phase IV LDRs, among other amendments. (The Board received a request from the Peoria Disposal Company to expedite on narrow aspect of these amendments that significantly reduced the paperwork burden of the requirements for waste certifications.)

June 17, 1997  
(62 Fed. Reg. 32973)

Amendment of carbamate waste listings in response to a judicial remand. USEPA deleted a number of carbamate waste listings in response to the remand in Dithiocarbamate Task Force v. EPA, 98 F.3d 1394 (D.C. Cir. 1996).

Finally, the Board has included a single action from the update period July 1 through December 31, 1997, for which there is no docket presently reserved. That action is the following:

July 14, 1997  
(62 Fed. Reg. 37693)

Extension of the national capacity variance for K088 wastes. USEPA extended the national capacity variance for K088 wastes for three months, until October 8, 1997.

#### Docket R97-3: January 1 through June 30, 1996 UIC Amendments

In addition to affecting the RCRA Subtitle C regulations, the federal actions of April 8 (both actions) and 30 and June 28, 1996 (second action) affected the underground injection control (UIC) rules. The following actions are included under the UIC update docket R97-3 (each briefly described above):

April 8, 1996  
(61 Fed. Reg. 15596)

Phase III land disposal restrictions (LDRs).

April 30, 1996  
(61 Fed. Reg. 19117)

Phase III LDR corrections.

June 28, 1996  
(61 Fed. Reg. 33680)

Phase III LDR corrections.

#### Brief Summaries of the Federal Actions Considered in this Docket

By way of brief elaboration, the Board will summarily describe the federal actions that

occurred in the time-frame of this docket and our action on each matter.

On July 11, 1995, USEPA added a method for demonstrate the non-biodegradability of sorbent materials. The disposal of liquids sorbed into biodegradable materials in landfills is prohibited under the regulations. This set of amendments added a third test method for assuring compliance with the prohibition. The Board has included these amendments in this consolidated docket.

USEPA undertook three separate actions that amended its Clean Water Act test methods during the timeframe of the R96-10 update docket. On August 2, 1995, USEPA added a new method for testing pesticides and polychlorinated biphenyls (PCBs) in wastewater using disc extraction. On August 28, 1995, USEPA added three methods for determining total Kjeldahl nitrogen in wastewaters. Finally, on October 16, 1995, USEPA added whole effluent toxicity test methods to the lists of approved methods. Although these methods are not likely used for hazardous waste evaluations, incorporating the amendments into the hazardous waste rules requires only a routine update to the version of 40 CFR 136 incorporated by reference. The Board includes the update in this docket for that reason.

USEPA issued an interpretation of its regulations on August 14, 1995. USEPA stated in its interpretation that non-carbamate wastes from the production of intermediates used in the production of carbamates are not covered under the hazardous waste listings designated K-156 or K-157. This interpretation did not come in the form of an alteration of any regulatory language. The Board notes the interpretation, but it does not require amendments to the Illinois RCRA Subtitle C hazardous waste regulations.

The October 23, 1995 federal action also does not require Board action. In that action USEPA corrected an error in certain amendments of February 8, 1994. USEPA had intended to delete a Connecticut facility from a hazardous waste delisting previously granted to Envirote Corp. Instead, USEPA deleted the entire delisting, including that for Envirote's Harvey, Illinois facility. Since the Board never incorporated the original federal error, no further Board action is required at this time.

The federal amendments of October 30, 1995 stayed the rules applicable to certain mixtures of used oil and hazardous waste that is destined for recycling. The hazardous waste mixed with the oil either exhibits the corrosivity characteristic or was listed by USEPA because it exhibited the corrosivity characteristic. The September 10, 1992 used oil regulations would have allowed regulation of these mixtures under the used oil rules and outside the generally applicable hazardous waste management standards. Subsequent to the adoption of the used oil rules, a federal court issued a decision in Chemical Waste Management, Inc. v. EPA, 976 F.2d 2 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 1057, 113 S. Ct. 1961 (1993), which held that dilution was not an acceptable form of hazardous waste treatment. As a result, actions were filed to challenge the used oil regulations based on the Chemical Waste Management decision. In one of those cases, USEPA joined the petitioner to seek voluntary vacatur of the used oil mixture rule, and the court remanded the rule with instructions for further administrative action. Safety-Kleen Corp. v. EPA, No. 92-1629, slip op. (D.C. Cir. Sept. 15, 1994). USEPA stayed the used oil mixture rule pending its further consideration of the rule pursuant to the judicial remand.

The October 30, 1995 administrative stay of the used oil rule made the federal



regulation of these mixtures more stringent. It reinstated the previously-applicable regulations and has the effect of requiring regulation of these mixtures under the general hazardous waste management standards of 40 CFR 262 through 266 and 268. The stay was to remain effective until USEPA completes a rulemaking reconsidering the used oil mixture rule. However, a subsequent court order in the Safety-Kleen case vacated the October 30, 1995 stay. USEPA published a notice of the vacatur of the stay on June 28, 1996, thus obviating Board action to incorporate the October 30, 1995 stay.

USEPA adopted significant amendments to the RCRA permitting requirements on December 11, 1995. The amendments are intended to provide greater and earlier opportunity for public participation in the permitting process for hazardous waste management facilities. The amendments also expanded public access to information during the permitting process and during the operational life of the permitted facility. Among the several changes, the amendments require a permittee to conduct a previously-noticed informal public meeting on its permit application prior to submitting the application. The amendments also allow the permitting authority (the Agency in Illinois) at any time in the permit process or the permit life of the facility to require the facility owner or operator to set up an information repository where the public can review facility documents. The Board has incorporated these federal amendments in this docket.

On February 9, 1996, USEPA adopted technical amendments and corrections to its "Subpart CC" organic material emissions regulations applicable to hazardous waste tanks, containers, and surface impoundments. The Board notes, however, that on November 25, 1996, USEPA significantly rewrote those regulations when it published a set of final amendments based on its reconsideration of those rules. The Board has included both sets of Subpart CC amendments in this docket.

USEPA authorized additional elements of the Illinois RCRA Subtitle C hazardous waste program on March 15, 1996. No Board action to amend the Illinois regulations based on this action. Rather, the Board notes the approval for the benefit of the regulated community. Included were program elements adopted by the Board in dockets R90-2 through R93-4 between July 3, 1990 and November 22, 1993.

USEPA corrected its July 28, 1994 exclusion from the definition of solid waste for recovered oil reinjected into the refining process. The Board has included amendments based on this March 26, 1996 action in this docket.

USEPA undertook a number of actions relating to its Phase III land disposal restrictions (LDRs) and the carbamate waste listings. USEPA adopted the Phase III LDRs on April 8, 1996, establishing LDRs for carbamate pesticide wastes and spent aluminum potliners. With the adoption of these rules and later, USEPA amended, clarified, and withdrew the Phase III and carbamate rules. On April 8, 1996, contemporaneous with their adoption, USEPA withdrew segments of the Phase III LDRs and amended segments of the September 19, 1994 Phase II LDRs. It did this as a result of the adoption of the Land Disposal Program Flexibility Act of 1996, Pub. L. 104-119, effective March 26, 1996, which effectively overrode the judicial decision in Chemical Waste Management, Inc. v. EPA, 976 F.2d 2 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 1057, 113 S. Ct. 1961 (1993). USEPA adopted various corrections to the Phase III LDRs on April 30, June 28, and July 10, 1996 and February 19, 1997. On August 26, 1996, USEPA adopted an emergency amendment to correct the Phase III LDRs.

Finally, USEPA acted on June 17, 1997 to delete many of the carbamate waste listings in response to the remand in the case, Dithiocarbamate Task Force v. EPA, 98 F.3d 1394 (D.C. Cir. 1996). The federal actions of April 8 and 30 and June 28, 1996 affected both the RCRA Subtitle C and the UIC regulations. The other actions affected only RCRA Subtitle C rules.

The Board included amendments in this consolidated docket to incorporate the federal Phase III LDR rules into the Illinois program. Although most of the corrections occurred after the end of the latest update period in the docket, the Board included all of the corrections because they affect the same subject matter involved in this docket. The Board included the action of June 17, 1997 for the same reason and to avoid any potential for the Illinois rules to inadvertently become more stringent than the federal regulations.

USEPA adopted regulations relating to the import and export of hazardous wastes on April 12, 1996. USEPA adopted these rules pursuant to Decision C(92)39 of the Organization for Economic Cooperation and Development (OECD) Council. Under that decision, hazardous wastes are subjected to a graduated system of import and export controls based on their appearance on a list as any of green, red, or amber waste. The regulation of international shipments of hazardous waste is the exclusive domain of the federal government, and USEPA explained that the OECD-derived rules are not required elements for state programs. Nevertheless, the Board has proposed the amendments in this docket for the purposes of public comment. This is discussed in greater detail below in this opinion (beginning at page 53 of this opinion).

Finally, the Board has included three unrelated federal actions that are outside the nominal time-frame of this consolidated docket. In actions dated January 14 and July 14, 1997, USEPA twice extended the national capacity variance for land disposal of K088 waste. These actions allow the continued land disposal of K088 waste until October 9, 1997. Since the variance expires prior to the time when final amendments would be filed with the Office of the Secretary of State and become effective, the Board has not included amendments based on the federal variance.

The third action, that of May 12, 1997, is the partial federal adoption of the Phase IV LDRs. One aspect of the Phase IV LDRs relates to the transfer records with shipments of treated waste for land disposal. USEPA revised the required frequency of submission of documentation of shipments from forwarding the papers with each shipment sent to a treatment, storage, or disposal facility to forwarding them on a one-time basis unless certain events occurred that would necessitate sending new documentation. The Board received a request from the Peoria Disposal Company on July 15, 1997, requesting that we expedite our consideration of this narrow aspect of the Phase IV LDR rules, in order to reduce the regulatory burden on its operations. The Board has included this limited action in this docket as requested. This action is discussed in more detail below (beginning at page 47 of this opinion).

#### REQUEST FOR EXPEDITED CONSIDERATION--SECTION 728.107

On July 16, 1997, the Board received a request from the Peoria Disposal Company (PDC) for expedited consideration. PDC requested that the Board include certain federal amendments of May 12, 1997 in this docket. The May 12, 1997 federal action was a partial adoption of the Phase IV land disposal restrictions (LDRs). Most of the Phase IV LDR

amendments would tend to render the federal hazardous waste regulations more stringent, but the PDC request does not involve those aspects of the Phase IV LDRs. Rather, PDC requests that the Board expedite our consideration of amendments to 40 CFR 268.7(a)(4) and (b)(4), which correspond with existing 35 Ill. Adm. Code 728.107(a)(3) and (b)(5). The requested amendments would dramatically reduce paperwork burden by reducing the frequency at which a waste generator must forward written notice with its shipments of hazardous waste to a land disposal facility. Under the amendments, the generator needs only to forward the notice with its initial shipment to each disposal facility, unless some change occurs in the waste, which would prompt another notice.

The Board is sensitive to the burdens that the present scheme of hazardous waste regulation imposes on the regulated community. We do not wish the Illinois regulations to inadvertently become more stringent than the federal rules. When federal amendments occur that cause the Illinois rules to temporarily more stringent than the federal requirements, we want to minimize the time that this disparity in regulatory burden exists.

For the foregoing reasons, the Board grants PDC's request for expedited consideration. We have examined the text of 40 CFR 268.7(a) and (b) and corresponding existing 35 Ill. Adm. Code 728.107(a) and (b). We note that USEPA fairly extensively revised the text of these provisions in the Phase IV LDR amendments, and that the each-shipment notice requirements have been thoroughly eliminated from these two federal subsections. Examination of subsections (a) and (b) of the Illinois rules reveals that the each-shipment notification requirements exist at subsections (a)(1), (a)(2), (a)(3), and (b)(4). Subsections (a)(1) and (a)(2) apply to situations where the waste is shipped to a treatment, storage, or disposal facility and no exemption from a prohibition is involved, which is outside the scope of PDC's request.

In making the amendments requested by PDC, the Board has included parallel amendments to subsections (a)(1) and (a)(2), in addition to the requested amendments to subsections (a)(3) and (b)(4). We specifically note also that we have added the limiting language to the need to renew the notice if there is a change in the waste. The Board notes that the federal redrafting of 40 CFR 268.7(a) and (b) makes the respective texts of the federal and Illinois regulations nonparallel, which introduces a latitude for error. The Board requests public comment on our inclusion of the Phase IV LDR written notice provisions into the Illinois rules.

### 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.

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

## EDITORIAL CONVENTIONS

The Board appends three routine discussions at the end of this opinion. The first is a summary history of the Illinois RCRA Subtitle C and UIC programs. It lists all 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.

## 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.

### General Revisions

The Board has engaged in an ongoing effort to change its method of referring to the United States Environmental Protection Agency in the hazardous waste and other regulations through the course of the last several update proceedings, R93-16, R94-7, R94-17, and R95-4/R95-6, and R95-20. Subsequent to the final opinion and order in the next preceding update, R95-4/R95-6 dated June 1, 1995, JCAR requested that the Board adopt the same usage 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 included the Agency in our discussion of whether "USEPA" or "U.S. EPA" would become the chosen form. The Agency's Bureau of Air pressed for unity in favor of the "USEPA" usage. For this reason, the Board begins the process of reversing the prior unifying amendments in the provisions that are open in this docket. We will now refer to "USEPA." We will continue this conversion in future rulemakings as additional Sections otherwise become open to amendment.

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 also changed "who" to "that" and "he" 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.

Finally, some of the language structure of the federal base text (in the new amendments) is cumbersome or less than clear. The Board has attempted to correct some of the worst instances of this. We realize that the language of the hazardous waste regulations could still be clearer and more concise, but the Board cannot go further at this time and still

maintain parity with the federal regulations. However, we invite interested members of the regulated community to submit suggestions relating to correcting deficiencies and errors and enhancing clarity of the rules.

For the sake of brevity, the following tables set forth the miscellaneous corrections to the pre-amended base text of the rules for persons needing to make the comparison in detail. Corrections made to the amendments incorporated in this docket are set forth in the topical discussions that follow.

As a segment of this identical-in-substance rulemaking, as in all others, the Board has used the opportunity to make a number of nonsubstantive corrective and stylistic revisions. A number of these are routine and do not warrant further elaboration, such as updating the citations to the Code of Federal Regulations to the 1996 version and changing "U.S. EPA" to "USEPA." The Board indicates the location in the rules of others of these amendments that were not derived from the present federal amendments in the following table:

Corrections to Base Pre-Amended Text

<u>Section</u>	<u>Correction</u>
703.213(a)	Added comma to correct punctuation
703.213(e)	Added comma to correct punctuation; corrected cross reference citation and format
703.223 Board Note	Corrected reference to the Code of Federal Regulations
703.225	Used "that" in place of "who"
703.225 Board Note	Corrected format
703.232(c)(1)(A)	Added comma missing from series
703.232(c)(2)(A)	Corrected cross reference format
703.232(c)(3)(D)	Moved comma to correct position
703.232(c)(4)	Added comma missing from series
703.232(f)(1) & (f)(7)	Removed unnecessary commas
703.240	Moved "only"
703.260 Board Note	Used "that" in place of "who"
721.104(a)(12)	Added comma missing from series; added "from" for enhanced clarity

*721.105(f)(3)(A) & (f)(3)(B)	Added references to Part 702
721.105(f)(3)(D)	Added comma to series
*721.105(f)(3)(G)	Added references to 40 CFR 273
*721.105(g)(3)(A) & (g)(3)(B)	Added references to Part 702
721.105(g)(3)(D)	Added comma to series
*721.105(g)(3)(G)	Added references to 40 CFR 273
722.110 (b)-(g) & Board Note	Used "that" in place of "who"
722.153(b)	Added CFR date
722.153(c)	substituted "each" for "the" for clarity; added "above" to cross-reference
722.156(b)	Added CFR date
722.156(c)	substituted "each" for "the" for clarity
723.110(a) & (c)	Corrected cross-reference format; added quotation marks to title of Part
723.110(c) Board Note	Changed "who" to "that;" corrected format of references
723.120(a)(1)	Corrected reference to "722.120"
723.120(d), (g) & (h)	Changed "who" to "that"
724.113(b)(8)(A)	Changed end punctuation
724.171(c) Board Note	Changed "who" to "that"
724.933(m)	Changed to singular; changed "and" to "or"
724.934(c)(1), (c)(1)(E), (c)(1)(F) & (c)(3)(A)	Correct cross-reference format
724.934(c)(1)(D) & (c)(1)(E)	Convert formulae to the scientific format and symbols used in the federal regulations
724.934(c)(1)(C)	Correct punctuation of incorporation by reference
724.935(d)	Corrected cross-reference format

724.950(b)(1) & (b)(2)	Added references to Parts 702 and 705
724.955(c)	Hyphenated "in-situ;" corrected cross-reference format
724.964(e) & (l)	Corrected cross-reference format
724.980(c)	Changed "who" to "that"
724.982(c)(2)(E)(i)	Changed "which" to "that"
724.982(c)(2)(G)(i) & (c)(2)(H)(i)	Added references to Part 702
724.983(b)(1)	Corrected reference to plural "Sections"
724.987(c)(5)(A)(iv)	Added reference to Part 702
724.989(i)(2)	Added "the following for" for clarity; corrected cross-reference format
724.989(i)(2)(A) & (i)(3)(A)	Added "the following" for clarity
725.930(b)(1) & (b)(2)	Added references to Parts 702 and 705
725.933(f)(2)(F)(ii)	Added "degrees Celsius" and put abbreviation in parentheses
725.933(l)	Wording changed to singular
725.934(c)(1)(D) & (c)(1)(E)	Convert formulae to the scientific format and symbols used in the federal regulations
725.934(c)(1), (c)(1)(E), (c)(1)(F) & (c)(3)	Correct cross-reference format
725.934(c)(1)(C)	Correct punctuation of incorporation by reference
725.935(b)(4)(C), (c)(4)(B), (c)(4)(C)(i), (c)(4)(C)(ii), (c)(4)(D)(i), (c)(4)(D)(ii), (c)(4)(F)-(c)(5)	Corrected cross-reference format
725.950(b)(1) & (b)(2)	Added references to Parts 702 and 705
725.955(c)	Hyphenated "in-situ;" corrected cross-reference format
725.964(e) & (l)	Corrected cross-reference format
725.980(c)	Changed "who" to "that"

725.983(c)	Corrected reference to plural "Sections"
725.983(c)(2)(G)(i) & (c)(2)(H)(i)	Added references to Part 702
725.984(b)(1)	Corrected reference to plural "Sections"
725.984(b)(4)(C) "x," "y" & "x"	Corrected cross-reference format
725.984(b)(5)(C) "aj" & "bj"	Corrected cross-reference format
725.984(b)(5)(D) "R"	Added "in"
725.984(b)(5)(D) "Ea," "Eb," "Qbj," "Qaj," "aj" & "bj"	Added definite articles
725.984(b)(5)(E) "R"	Added "in"
725.984(b)(5)(E) "Ea" & "Eb"	Added definite articles
725.984(b)(6)(A)	Corrected citation
725.984(b)(7)(D) "y" & "y"	Corrected citation
725.988(c)(5)(A)(iv)	Added reference to Part 702
725.990(i)(2)	Added "the following for" for clarity; corrected cross-reference format
725.990(i)(2)(A) & (i)(3)(A)	Added "the following" for clarity
726.170(b), (b)(2) & (c)	Substituted "that" for "who"
728.102 "inorganic solid debris"	Added quotation marks to defined term; put term in lower case
728.107(d)(1)(C) & (d)(3)	Corrected cross-references to "35 Ill. Adm. Code 721.103(e)(1)"
728.109(d)	Corrected to singular "waste;" corrected "one time" to hyphenated "one-time"
728.140(e)	Added "set forth;" added "the;" substituted "set forth" for "found;" deleted unnecessary reference to Section 728.148
728.Table T	Added "in" in wastewaters heading; corrected note number to "5" in nonwastewaters heading
728.Table T D006	Hyphenated "cadmium-containing"



728.Table T D008	Moved parentheticals (all listings)
728.Table T D009	Corrected spelling to "method"
728.Table T D010	Corrected "or" to "of"
728.Table T D019	Changed commas to semicolons
728.Table T D023	Removed erroneous symbol from chemical name
728.Table T F001, F002, F003, F004 & F005	Corrected format of chemical name "1,1,2-trichloro-1,2,2-trifluoroethane;" added listing for "benzene" omitted from prior text
728.Table T D004, D008	Substituted "alternative" for "alternate"
728.Table T D006	Hyphenated "cadmium-containing"
728.Table T F020, F021, F022, F023, F026	Omitted semicolons; retained language "wastes (except . . . purification)" for clarity; added conjunction "or"
728.Table T F024 & F025	Moved entries to correct alphanumeric positions
728.Table T F037	Corrected em-dash
728.Table T F039	Corrected abbreviated chemical name "PeCDFs"
728.Table T K001	Corrected entries for lead
728.Table T K015	Corrected entries for nickel
728.Table T K021	Removed duplicate entry
728.Table T K087	Corrected spelling of "indeno(1,2,3-cd)-pyrene"
728.Table T K093	Corrected spelling of "terephthalic"
728.Table T K097	Corrected nonwastewater entry for heptachlor epoxide
728.Table T K145	Corrected nonwastewater entry for dibenz(a,h)anthracene

728.Table T P003	Corrected CAS number
728.Table T P004	Corrected nonwastewater entry for aldrin
728.Table T P006	Corrected nonwastewater entry for aldrin
728.Table T P024	Corrected wastewater entry for p-chloro-aniline
728.Table T P065	Corrected spelling of "content"
728.Table T U087	Corrected format of chemical name "O,O-diethyl-S-methyldithiophosphate"
728.Table T P110	Capitalized "Lead"
728.Table T P112	Corrected CAS number
728.Table T P137	Corrected format of chemical name "Indeno(1,2,3-c,d)pyrene"
728.Table T end note 5	Removed unnecessary comma
728.Table U benzene, 2-Chloroethyl vinyl ether, bis(2-ethylhexyl) phthalate	Moved entries to correct alphanumeric positions
728.Table U tribromomethane	Reversed appearance of primary and alternative chemical names
738.120(e) & (f)	Substituted "that" for "who"
739.110(a) & (e)(1)(B)	Corrected cross-reference format

\* Additional corrections appear in the detailed discussions of the amendments, beginning below on page 46.

In addition to the amendments not derived from federal amendments, the Board altered the text of various passages of the federal amendments when adapting that text to the Illinois regulations. The Board has assembled the following table to aid location of those alterations and to briefly outline their intended purpose. Some alterations are more significant, and substantive discussion is warranted for those. An asterisk marking the Section number indicates the provisions to which this applies. See the substantive discussion of the amendment to the appropriate Section to read that discussion. The Board has not included in this table such routine substitutions as changing references to the USEPA to the Agency or Board, as appropriate; changing the format of cross-references; using "or" in place of "/" or "and/or;" using "through" in place of "-;" substituting the numbers "one" through "ten" for the digits "1" through "10" where appropriate in narrative text; adding "US" to federal agency designations to clarify that the federal agency is intended; and adding the incorporation by reference language to references to the Code of Federal Regulations and other federal materials.

Deviations from the Federal Text of the Base Federal Amendments

<u>Section</u>	<u>Derived from</u>	<u>Deviation(s)</u>
703.191(a)	124.31(a)	Used singular; deleted language relating to facilities in unauthorized states
703.191(b)	124.31(b)	Standardized usage "RCRA Part B permit application;" added "its;" corrected punctuation
703.191(c)	124.31(c)	Corrected punctuation; relocated "as part of . . . application"
703.191(d)	124.31(d)	Corrected punctuation; relocated "and provide . . . upon request" for clarity
703.191(d)(1)(A)-(d)-(1)(C)	124.31(d)(1)(i)-(d)-(1)(iii)	Added express references to subsection (d)-(2) requirements for clarity
703.192(a)	124.32(a)	Used singular; deleted language relating to facilities in unauthorized states
703.192(b)(1)	124.32(b)(1)	Avoided repetition of Section number by use of "that Section"
*703.192(b)(2)	124.32(b)(2)	Used "10 calendar days" in place of "a reasonable time"
*703.192(b)(2)(B)	124.32(b)(2)(ii)	Added "as directed by the Agency"
703.192(c)	124.32(c)	Substituted "shall" for "must"
703.193(a)	124.33(a)	Used singular; deleted language relating to facilities in unauthorized states
703.193(b)	124.33(b)	Substituted "shall" for "must;" moved "on a case-by-case basis" for clarity; added "the following"
*703.193(b)(2)	124.33(b)(2)	Used "10 calendar days" in place of "a reasonable time"
703.193(c)	124.33(c)	Substituted "must" for "shall"
*703.193(d)	124.33(d)	Substituted "must" for "shall;" added "chosen" for clarity; substituted "determines that" for "finds"

*703.193(e)	124.33(e)	Added "for the applicant" for clarity
*703.193(f)	124.33(f)	Added "if it determines . . . no longer needed"
703.223(f)	270.62(b)(6)	Substituted "shall" for "must;" added commas to parentheticals; added "that Section" to avoid repetition of cross-reference
*703.223(f)(2)(B)	270.62(b)(6)(ii)(B)	Added "appropriate for the facility"
703.225	270.62(d)	Substituted "shall" for "must"
703.232(d)(3)	270.66(d)(3)	Substituted "shall" for "must;" added commas to parentheticals; added "that Section" to avoid repetition of cross-reference
*703.232(d)(3)(B)(ii)	270.66(d)(3)(ii)(B)	Added "as appropriate for the facility"
703.232(g)	270.66(g)	Substituted "shall" for "must;" added "appropriate for the facility"
703.248	270.30(m)	Substituted "shall" for "must"
720.102(b)	260.2(b)	Substituted "under" for "by;" added "or trade secret"
721.105(f)(3)	261.5(f)(3)	Substituted "meets any of the following conditions" for "is"
721.105(f)(3)(D)	261.5(f)(3)(iv)	Added "facility, the landfill" to standardize usage and correct grammar
721.105(f)(3)(E)	261.5(f)(3)(v)	Used "The facility is permitted" in place of "Permitted" to standardize usage; added "the unit" to correct grammar; removed surplus "or" at end of subsection
721.105(g)(3)	261.5(g)(3)	Substituted "meets any of the following conditions" for "is"
721.105(g)(3)(D)	261.5(g)(3)(iv)	Added "facility, the landfill" to standardize usage and correct grammar

721.105(g)(3)(E)	261.5(g)(3)(v)	Used "The facility is permitted" in place of "Permitted" to standardize usage; added "the unit" to correct grammar; removed surplus "or" at end of subsection
721.106(a)(5)	261.6(a)(5)	Used commas in place of parentheses; added "the;" removed surplus comma; substituted "hazardous waste manifesting" for "federal manifesting;" deleted reference to 40 CFR 273 in favor of Illinois Part 733
722.110(d)	261.10(d)	Deleted reference to 40 CFR 273 in favor of Illinois Part 733
722.158(a)	262.58(a)	Used "that" in place of "who;" used "either the . . . or" in place of "or;" removed corollary requirement that made it appear a parenthetical; added "which is shipped;" added commas to parenthetical; added "the requirements of;" added "where 722.Subpart H applies"
722.158(a)(1)	262.58(a)(1)	Used "are" in place of "consists of;" added "the"
722.158(a)(2)	262.58(a)(2)	Moved "Only for . . . under this Subpart" and eliminated repeated phrase
722.158(b)	262.58(b)	Used "that" in place of "who;" replaced colon with "any of"
722.180(a)	262.80(a)	Added "which;" replaced colon with "any of"
722.180(b)	262.80(b)	Used "that" in place of "who;" used "this Subchapter" in place of RCRA; added parenthetical "as applicable"
722.181	262.81	Added quotation marks to all defined terms
722.181 "notifier" & recognized trader"	262.81	Used "that" in place of "who"
722.181 "recovery operations"	262.81	Added "the following activities," punctuation for activity codes
722.182(a)	262.82(a)	Added comma to parenthetical "as defined . . ." (multiple locations)

722.182(a)(1)(B)	262.82(a)(1)(ii)	Standardized usage by using plural "wastes"
722.182(a)(1)(C)	262.82(c)(1)(iii)	Added commas to parenthetical "such as . . . procedures"
722.182(a)(2)	262.82(c)(2)	Removed subsection marked "reserved"
722.182(c)(1)	262.82(c)(1)	Added commas to parenthetical "as well as . . . countries"
722.183(b), (c) & (d)	262.83(b), (c) & (d)	Added commas to parenthetical "as described . . ."
*722.183(b)(1)(A) & (b)(2)(A)	262.83(b)(1)(i) & (b)(2)(i)	Added Agency contact requirement and address
722.183(e)(4)	262.83(e)(4)	Added semicolon missing from series
722.183(e)(6) & (e)-(8)	262.83(e)(6) & (e)(8)	Removed surplus commas
722.183(e)(12)	262.83(e)(12)	Added "as follows;" added quotation marks to statement
722.184(a)(1)	262.83(a)(1)	Added comma missing from introductory phrase
722.184(b)(1)-(b)(6)	262.84(b)(1)-(b)(6)	Repunctuated subsections to read as a conjunctive series
722.184(b)(1), (b)-(2), (b)(3), (b)(6) & (b)(7)	262.84(b)(1), (b)(2), (b)(3), (b)(6) & (b)-(7)	Added articles to subsections for clarity
722.184(b)(3)	262.84(b)(3)	Added "identification"
722.184(b)(6)	262.84(b)(6)	Added quotation marks to statement
722.185(b)	262.85(b)	Added "following" and "identification;" used plural "numbers"
722.185(b)(2) & (b)-(3)	262.85(b)(2) & (b)(3)	Used "that" in place of "who"
722.185(c)	262.85(c)	Added "the following;" added "that" to introduce both subsections
722.185(e)	262.85(e)	Corrected "alternate" to "alternative;" added comma missing from series

722.185(g)	262.85(g)	Added references to contacting the Agency; added missing preposition "in"
722.186(a)	262.86(a)	Substituted "that" for "who"
722.186(b)	262.86(b)	Added "notifier or consignee" for clarity
722.187(a)	262.87(a)	Substituted "that" for "who;" added reference to contacting the Agency; substituted "the person" for "he;" added "information"
722.187(a)(4)	262.87(a)(4)	Added missing definite articles
722.187(a)(5)	262.87(a)(5)	Added "kilograms" to define first appearance of "kg"
722.187(a)(6)	262.87(a)(6)	Added "as follows," quotes on certification statement
*722.187(b)	262.87(b)	Moved prepositional phrase re filing for clarity; added reference to filing with the Agency
722.187(b)(1)	262.87(b)(1)	Substituted "the person" for "he;" removed unnecessary comma
722.187(b)(2)	262.87(b)(2)	Added missing ending conjunction
722.187(c)(1)	262.87(c)(1)	Substituted "that" for "who;" added commas in subsections for clarity
*722.187(c)(2)	262.87(c)(2)	Added reference to contacting the Agency
722.189(a)(2)	262.89(a)(2)	Added "hazardous waste" for clarity; substituted "of" for "at;" deleted reference to federal universal waste standards
722.189(b)	262.89(b)	Added "either;" substituted "as appropriate" for "respectively"
722.187(c)	262.87(c)	Added missing definite article
722.189(e)	262.89(e)	Separated references to May 1993 list revisions
723.110(d)	263.10(d)	Removed unnecessary commas, duplicated "subject to"

723.120(a)	263.20(a)	Retained prior subsection divisions, altering indent level to accommodate amendments.
*724.112(a)(2)	264.12(a)(2)	Added Agency address
*724.171(d)	264.71(d)	Added Agency address; separated elements of series with semicolons
724.414(e)(2)(A)	264.314(e)(2)(i)	Remove ending "or"
724.930(b)(1)	264.1030(b)(1)	Remove ending "or"
724.930(b)(2)	264.1030(b)(2)	Replace ending period with semicolon and "or"
724.933(k), (k)(2), (l)(1)(B)(i), (l)(1)(B)- (ii), (l)(2), (l)(2)(A), (l)(3)(A)-(l)(3)(C)	264.1033(k), (k)(2), (l)(1)(i)(A), (l)(1)(i)- (B), (l)(2), (l)(2)(i), (l)(3)(i)-(l)(3)(iii)	Substituted "must" for "shall"
724.933(n)(1)(A)	264.1033(n)(1)(i)	Substituted "that" for "which"
724.933(n)(2) & (n)- (3)	264.1033(n)(2) & (n)(3)	Added "done" and "of the following"
724.933(n)(2)(A) & (n)(3)(A)	264.1033(n)(2)(i) & (n)(3)(i)	Added "the owner or operator has;" substituted "that" for "which"
724.933(n)(2)(B) & (n)(3)(B)	264.1033(n)(2)(ii) & (n)(3)(ii)	Added "the owner or operator"
724.933(o)	264.1033(o)	Added "both . . . fulfilled"
724.933(o)	264.1033(o)	Changed "determines" to "has determined"
724.935(c)(10)	264.1035(c)(10)	Substituted "must" for "shall"
724.935(d)	264.1035(d)	Added missing comma to series; substituted "must" for "shall"
724.950(b)(1)	264.1050(b)(1)	Omitted ending "or"
724.955(a)	264.1055(a)	Substituted "must" for "shall"
724.955(b)(3)	264.1055(b)(3)	Corrected to plural "Sections"
724.980(b)(7)	264.1080(b)(7)	Added "federal" for clarity
724.980(b)(8)	264.1080(b)(8)	Added comma to parenthetical



*724.982(c)(2)(E)(ii)	264.1082(c)(2)(v)(B)	Placed language relating to a drain system that meets the requirements of 40 CFR Part 63 into a Board Note
724.982(c)(2)(G) & (c)(2)(H)	264.1082(c)(2)(vii) & (c)(2)(vii)	Reworded for clarity, moving "either," adding "following conditions is true," and moving "the owner or operator" into the subsections
724.982(c)(2)(G)(i) & (c)(2)(H)(i)	264.1082(c)(2)(vii)-(A) & (c)(2)(viii)(A)	Substituted "that" for "which"
724.982(c)(4)	264.1082(c)(4)	Added "fulfills" and "following conditions"
724.982(c)(4)(A) & (c)(4)(B)	264.1082(c)(4)(i) & (c)(4)(ii)	Added "it"
*724.982(c)(5)(A)	264.1082(c)(5)(i)	Added English system equivalent " (11 tons) "
724.982(c)(5)(B)	264.1082(c)(5)(ii)	Added missing end punctuation
724.983(d) 724.984(b)	264.1083(d) 264.1084(b)	Substituted "must" for "shall" Added comma to parenthetical
724.984(b)(1)(A)	264.1084(b)(1)(i)	Substituted "that" for "which"
*724.984(b)(1)(A)(i)-(b)(1)(A)(iii)	264.1084(b)(1)(i)(A)-(b)(1)(i)(C)	Added English system equivalents in parentheses
724.984(b)(2)	264.1084(b)(2)	Removed unnecessary colon
724.984(c), (c)(1), (c)(2), (c)(2)(A), (c)(2)(B), (c)(2)(C), (c)(2)(C)(ii), (c)(2)(D), (c)(3), (c)(4)(A), (d), (e)(1), (e)(1)(A), (e)(1)(B), (e)(1)(C), (e)(1)(C)(ii)-(e)(1)(C)(vi), (e)(2)(A), (e)(2)(C), (e)(3)(A), (e)(3)(D)(i), (f), (f)(1)(A)-(f)(1)(C)(ix), (f)(2)(A)-(f)(2)(H), (f)(3)(A)(iii), (f)(3)(B)(i), (f)(3)(C)(i), (f)(3)(C)(ii), (f)(3)(D)(i)-(f)(3)(D)(iv), (g)(1)-(g)(2), (g)(3)(A), (g)(3)(B), (h)-(i)(2),	264.1084(c), (c)(1), (c)(2), (c)(2)(i), (c)(2)(ii), (c)(2)(iii), (c)(2)(iii)(B), (c)(2)(iv), (c)(3), (c)(4)(i), (d), (e)(1), (e)(1)(i), (e)(1)(ii), (e)(1)(iii), (e)(1)(iii)(B)-(e)(1)(iii)(G), (e)(2)(i), (e)(2)(iii), (e)(3)(i), (e)(3)(iv)(A), (f), (f)(1)(i)-(f)(1)(iii)(I), (f)(2)(i)-(f)(2)(viii), (f)(3)(i)(C), (f)(3)(ii)(A), (f)(3)(iii)(A), (f)(3)(iii)(B), (f)(3)(iv)(A)-(f)(3)(iv)(D), (g)(1)-(g)(2), (g)(3)(i), (g)(3)(ii), (h)-(i)(2), (j)(1),	Substituted "must" for "shall"

(j)(1), (k)(1) & (k)(2)	(k)(1) & (k)(2)	
724.984(c)(2)(D)	264.1084(c)(2)(iv)	Added "the following;" added definite article; replaced erroneous comma with semicolon
724.984(e), (f), (g), (h) & (i)	264.1084(e), (f), (g), (h) & (i)	Substituted "that" for "who"
724.984(e)(3)(A)	264.984(e)(3)(i)	Added "any of the following" and "when"
724.984(e)(3)(B)	265.984(e)(3)(ii)	Added comma for parenthetical
724.984(e)(3)(B)(ii)	264.1084(e)(3)(ii)(B)	Added "once" for clarity
724.984(e)(3)(D)(i) *724.984(f)(1)(B)(i) & (f)(1)(B)(ii)	264.1084(e)(3)(iv)(A) 264.1084(f)(1)(ii)(A) & (f)(1)(ii)(B)	Added commas for parentheticals Added English system equivalents in parentheses
724.984(f)(1)(B)(ii)	264.1084(f)(1)(ii)(B)	Substituted abbreviated units "cm" and "cm <sup>2</sup> "
*724.984(f)(3)(A)-(iv), (f)(3)(D) & Board Note	264.1084(f)(3)(i)(D)-(f)(3)(i)(D)(4)	Rearranged location of text to avoid violating maximum indent level; added Board Note for explanation
724.984(f)(3)(B)(i)	264.984(f)(3)(ii)(A)	Added "any of the following"
724.984(f)(3)(C)(ii)	264.984(f)(3)(iii)(B)	Added comma for parenthetical
724.984(f)(3)(D)(i)	264.984(f)(3)(iv)(A)	Added "any of the following"
*724.984(f)(3)(D)(ii)	264.984(f)(3)(i)-(D)(2)	Added English system units in parentheses
724.984(g)(1)(C)	264.1084(g)(1)(iii)	Added "the following;" substituted semicolon for comma to separate major elements of series
724.984(g)(3)(A)	264.1084(g)(3)(i)	Added "any of the following:"
724.984(i)(1)	264.1084(i)(1)	Added comma for parenthetical
724.985(c) & (d)	264.1085(c) & (d)	Substituted "that" for "who"

724.985(c)-(c)(1)(B), (c)(1)(C)-(c)(2), (c)- (3)(A), (d)(1)-(d)(2), (d)(3)(A), (d)(3)(B), (e)(1), (f)(1) & (f)(2)	264.985(c)-(c)(1)(ii), (c)(1)(iii)-(c)(2), (c)- (3)(i), (d)(1)-(d)(2), (d)(3)(i), (d)(3)(ii), (e)(1), (f)(1) & (f)(2)	Substituted "must" for "shall"
*724.985(c)(1)(B)(i)	264.1085(c)(1)(ii)(A)	Added English system units in parentheses
724.985(c)(1)(C)	264.1085(c)(1)(iii)	Moved "such" for clarity
724.985(c)(1)(D)	264.1085(c)(1)(iv)	Substituted "so designed as" for "designed . . . such" for clarity
724.985(c)(1)(F) & (d)(1)(C)	264.1085(c)(1)(vii) & (d)(1)(iii)	Added "the following" and definite article
*724.986(b)(1)(A)- (b)(2)	264.1086(b)(1)(i)- (b)(2)	Added English system units in parentheses
724.986(c)(1)(A)	264.1086(c)(1)(i)	Added comma for parenthetical
724.986(c)(1)(B)	264.1086(c)(1)(ii)	Substituted "so" for "such"
724.986(c)(2)	264.1086(c)(2)	Added "the following" and definite article
724.986(c)(2), (c)(3)- (D), (c)(4)(C), (d)- (2), (d)(3)(D), (d)(4)- (C), (e)(2)(A), (e)(2)- (B), (f), (g)(1), (g)- (2), (h)(1) & (h)(2)	264.986(c)(2), (c)(3)- (iv), (c)(4)(C), (d)- (2), (d)(3)(iv), (d)(4)- (iii), (e)(2)(i), (e)(2)- (ii), (f), (g)(1), (g)- (2), (h)(1) & (h)(2)	Substituted "must" for "shall"
724.986(c)(3)(B)(i) & (c)(3)(B)(ii)	264.2086(c)(3)(ii)(A) & (c)(3)(ii)(A)	Commas added for parentheticals
*724.986(c)(5)	264.1086(c)(5)	Added English system units in parentheses; added comma for parenthetical
724.986(d)(1)(B)	264.986(d)(1)(ii)	Commas added for parenthetical
724.987(b)(3)	264.1087(b)(3)	Deleted "in the case;" added comma for parenthetical
724.987(b)(3)-(b)(4), (c)(2)(A), (c)(2)(D) & (c)(7)	264.1087(b)(3)- (b)(4), (c)(2)(i), (c)- (2)(iv) & (c)(7)	Substituted "must" for "shall"
724.987(b)(3)(A)	264.1087(b)(3)(i)	Added "the purposes of;" substituted "that" for "which"

724.987(b)(3)(B)	264.1087(b)(3)(ii)	Substituted "or" for comma
724.987(c)(2)	264.1087(c)(2)	Substituted "that" for "who"
724.987(c)(2)(F)	264.1087(c)(2)(vi)	Substituted "so" for "such;" added comma for parenthetical
724.989(a), (b)(2)-(A), (b)(2)(C)(ii), (e)(1)(B), (e)(1)(E)(i) & (e)(1)(E)(ii)	264.1089(a), (b)(2)-(1), (b)(2)(iii)(B), (e)(1)(ii), (e)(1)(v)-(A) & (e)(1)(v)(B)	Substituted "must" for "shall"
724.989(a)	264.1089(a)	Added "is" for clarity; added comma for parenthetical
724.989(e)(1)(B)	264.1089(e)(1)(ii)	Added comma for parenthetical
724.989(g)	264.1089(g)	Corrected position of comma at end of quotation
724.990(c)	264.1090(c)	Added "of the . . . occurs"
*725.112(a)(2)	265.12(a)(2)	Added Agency address
*725.171(d)	265.71(d)	Added definite article; added Agency address
725.933(j), (j)(2), (k)(1)(B)(i), (k)(1)-(B)(ii), (k)(2), (k)(2)-(A), (k)(3)(A)-(k)(3)-(C)	265.1030(j), (j)(2), (k)(1)(ii)(A), (k)(1)-(ii)(B), (k)(2), (k)(2)-(i), (k)(3)(i)-(k)(3)-(iii)	Substituted "must" for "shall"
725.933(m)(1)(A)	265.1033(m)(1)(i)	Substituted "that" for "which"
725.933(m)(2) & (m)(3)	265.1033(m)(2) & (m)(3)	Added "done" and "of the following"
725.933(m)(2)(A) & (m)(3)(A)	265.1033(m)(2)(i) & (m)(3)(i)	Added "The owner or operator;" substituted "that" for "which"
725.933(m)(2)(B) & (m)(3)(B)	265.1033(m)(2)(ii) & (m)(3)(ii)	Added "The owner or operator"
725.933(n)	265.1033(n)	Added "both . . . fulfilled"
725.933(n)(1)	265.1033(n)(1)	Changed "determines" to "has determined"
725.935(c)(10) & (d)	265.1035(c)(10) & (d)	Substituted "must" for "shall"

725.950(b)(1)	265.1050(b)(1)	Omitted ending "or"
725.955(a)	265.1055(a)	Substituted "must" for "shall"
725.955(b)(3)	265.1055(b)(3)	Corrected to plural "Sections"
725.980(b)(7)	265.1080(b)(7)	Added "federal" for clarity
725.980(b)(8)	265.1080(b)(8)	Added comma to parenthetical
725.981	265.1081	Added quotation marks to defined terms
725.981 "closure device" & "vapor-mounted seal"	265.1081	Substituted "so" for "such"
*725.981 "in light material service"	265.1081	Added English system units in parentheses
725.981 "malfunction"	265.1081	Changed to singular
725.981 "metallic shoe seal"	265.1081	Substituted "that" for "which;" added "which"
725.981 "point of waste treatment"	265.1081	Substituted "must" for "shall"
725.981 "safety device"	265.1081	Added comma missing from series
*725.981 "volatile organic concentration"	265.1081	Substituted abbreviation "°C" and added English system units in parentheses
725.981 "Waste stabilization process"	265.1081	Substituted "addition" for "adding;" moved prepositional phrase "to absorb free liquid" for clarity
*725.983(c)(2)(E)(ii)	265.1083(c)(2)(v)(B)	Placed language relating to a drain system that meets the requirements of 40 CFR Part 63 into a Board Note
725.983(c)(2)(G) & (c)(2)(H)	265.1083(c)(2)(vii) & (c)(2)(vii)	Reworded for clarity, moving "either," adding "following conditions is true," and moving "the owner or operator" into the subsections

725.983(c)(2)(G)(i) & (c)(2)(H)(i)	265.1083(c)(2)(vii)- (A) & (c)(2)(viii)(A)	Substituted "that" for "which"
725.983(c)(4)	265.1083(c)(4)	Added "fulfills" and "following conditions"
725.983(c)(4)(A) & (c)(4)(B)	265.1083(c)(4)(i) & (c)(4)(ii)	Added "it"
*725.983(c)(5)(A)	264.1083(c)(5)(i)	Added English system equivalent "(11 tons)"
725.984(a)(2), (a)(3)- (B)(i)-(a)(3)(C), (a)- (3)(C)(vi), (a)(3)(C)- (vii), (a)(4)(A), (a)- (4)(D), (b)(3)(B)-(b)- (3)(C), (b)(3)(C)(vi), (b)(3)(C)(vii), (c)(3)- (A), (c)(4), (d)(1)- (d)(9)	265.1084(a)(2), (a)- (3)(ii)(A)-(a)(3)(iii), (a)(3)(iii)(F), (a)(3)- (iii)(G), (A)(4)(i), (A)(4)(iv), (b)(3)(ii)- (b)(3)(iii), (b)(3)(iii)- (F), (b)(3)(iii)(G), (c)(3)(i), (c)(4), (d)- (1)-(d)(9)	Substituted "must" for "shall"
*725.983(a)(3)(C)	265.1083(a)(3)(iii)	Substituted abbreviation "°C" and added English system units in parentheses; added comma for parenthetical; added "USEPA" for clarity
*725.984(a)(3)(C)- (vi), (a)(3)(C)(vii) & (a)(3)(E)	265.1084(a)(3)(iii)- (F)-(a)(3)(iii)(G)(2)	Rearranged location of text to avoid violating maximum indent level; added Board Note for explanation
725.984(a)(3)(D) "Ci"	265.1084(a)(3)(iv)	Added comma for parenthetical
725.984(a)(4)(A)	265.1084(a)(4)(i)	Added "the following"
*725.984(b)(3)(C)- (vi), (b)(3)(C)(vii) & (b)(3)(E)	265.1084(b)(3)(iii)- (F)-(b)(3)(iii)(G)(2)	Rearranged location of text to avoid violating maximum indent level; added Board Note for explanation
725.984(b)(3)(D) "Ci"	265.1084(b)(3)(iv)	Added comma for parenthetical
725.984(b)(4)(C) "Eb" & "Ea"	265.1084(b)(4)(iii)	Added definite article
725.984(b)(6)(B) "F <sub>bio</sub> "	265.1084(b)(6)(ii)	Added comma for parenthetical

725.984(b)(7)(D) & "y," (b)(8)(A), (b)(8)(C), (b)(9)(A) & (b)(9)(D)	265.1084(b)(7)(iv), (b)(8)(i), (b)(8)(iii), (b)(9)(i) & (b)(9)(iv)	Put abbreviations in parentheses
725.984(b)(7)(D) & "y"	265.1084(b)(7)(iv)	Added comma for parenthetical
725.984(b)(9)(D) & "Eb"	265.1084(b)(7)(iv)	Added definite article
725.984(d)(1)	265.1084(d)(1)	Added "the following;" added comma for parenthetical
725.985(b)	265.1085(b)(1)	Substituted "which" for "that"
725.985(b)(1)(A)	265.1085(b)(1)(i)	Substituted "that" for "which"
*725.985(b)(1)(A)(ii)	265.1085(b)(1)(i)(B)	Added English system equivalents in parentheses
725.985(b)(2)	265.1084(b)(2)	Added "the following;" added comma for parenthetical
725.985(c)(1), (c)(2)-(c)(2)(C), (c)(2)(C)-(ii)-(c)(3), (c)(3)(B), (c)(4)(A), (e)(1)-(e)(1)(B), (e)(1)(B)(ii)-(e)(1)(B)(vi), (e)(1)(C), (e)(2)(A), (e)(2)(C), (e)(3)(A), (f)(1)(A)-(f)(1)(C)(ix), (f)(2)(A)-(f)(2)(H), (f)(3)(A)(iii), (f)(3)(A)(5), (f)(3)(B)(i), (f)(3)(C)(i), (f)(3)(C)(ii), (g)(1)-(g)(2), (g)(3)(A), (g)(3)(B), (h), (h)(2)-(i)(2), (j)(1), & (k)(2)	265.1085(c)(1), (c)(2)-(c)(2)(iii), (c)(2)-(iii)(B)-(c)(3), (c)(3)(ii), (c)(4)(i), (e)(1)-(e)(1)(ii), (e)(1)(ii)(B)-(e)(1)(ii)(G), (e)(1)(iii), (e)(2)(i), (e)(2)(iii), (e)(3)(i), (f)(1)(i)-(f)(1)(iii)(I), (f)(2)(i)-(f)(2)(viii), (f)(3)(1)(C), (f)(3)(i)(V), (f)(3)(ii)(A), (f)(3)(iii)(A), (f)(3)(iii)(B), (g)(1)-(g)(2), (g)(3)(i), (g)(3)(ii), (h), (h)(2)-(i)(2), (j)(1), & (k)(2)	Substituted "must" for "shall"
725.985(c)(2)(D)	265.1085(c)(2)(iv)	Added "which;" added "the following;" added semicolon missing from series
725.985(c)(3)(B)	265.1085(c)(3)(ii)	Substituted semicolons for commas to separate major elements of series

725.985(e), (f), (g), (h) & (i)	265.1085(e), (f), (g), (h) & (i)	Substituted "that" for "who"
725.985(e)(3)(A)	265.985(e)(3)(i)	Added "any of the following" and "when"
725.985(e)(3)(B)	265.985(e)(3)(ii)	Added comma for parenthetical
725.985(e)(3)(B)(ii)	265.1085(e)(3)(ii)(B)	Added "once" for clarity
725.985(e)(3)(D)(i)	265.1085(e)(3)(iv)(A)	Added commas for parentheticals
*725.985(f)(1)(B)(i) & (f)(1)(B)(ii)	265.1085(f)(1)(ii)(A) & (f)(1)(ii)(B)	Added English system equivalents in parentheses
725.985(f)(1)(B)(ii)	265.1085(f)(1)(ii)(B)	Substituted abbreviated units "cm" and "cm <sup>2</sup> "
*725.985(f)(3)(A)-(iv), (f)(3)(D) & Board Note	265.1085(f)(3)(i)(D)-(f)(3)(i)(D)(4)	Rearranged location of text to avoid violating maximum indent level; added Board Note for explanation
725.985(f)(3)(B)(i)	265.985(f)(3)(ii)(A)	Added "any of the following"
725.985(f)(3)(C)(ii)	265.985(f)(3)(iii)(B)	Added comma for parenthetical
725.985(f)(3)(D)(i)	265.985(f)(3)(iv)(A)	Added "any of the following"
*725.985(f)(3)(D)(ii)	265.985(f)(3)(i)-(D)(2)	Added English system units in parentheses
725.985(g)(1)(C)	265.1085(g)(1)(iii)	Added "the following;" substituted semicolon for comma to separate major elements of series
725.985(g)(3)(A)	265.1085(g)(3)(i)	Added "any of the following:"
725.985(i)(1)	265.1085(i)(1)	Added comma for parenthetical
725.986(c) & (d)	265.1086(c) & (d)	Substituted "that" for "who"
725.986(c)-(c)(1)(B), (c)(1)(C)-(c)(2), (c)(3)(A), (d)(1)-(d)(2), (d)(3)(A), (d)(3)(B), (e)(1), (f)(1) & (f)(2)	265.986(c)-(c)(1)(ii), (c)(1)(iii)-(c)(2), (c)(3)(i), (d)(1)-(d)(2), (d)(3)(i), (d)(3)(ii), (e)(1), (f)(1) & (f)(2)	Substituted "must" for "shall"
*725.986(c)(1)(B)(i)	265.1086(c)(1)(ii)(A)	Added English system units in parentheses
725.986(c)(1)(C)	265.1086(c)(1)(iii)	Moved "such" for clarity



725.986(c)(1)(D)	265.1086(c)(1)(iv)	Substituted "so designed as" for "designed . . . such" for clarity
725.986(c)(1)(F) & (d)(1)(C)	265.1086(c)(1)(vii) & (d)(1)(iii)	Added "the following" and definite article
*725.987(b)(1)(A)-(b)(2)	265.1087(b)(1)(i)-(b)(2)	Added English system units in parentheses
725.987(c)(1)(A)	265.1087(c)(1)(i)	Added comma for parenthetical
725.987(c)(1)(B)	265.1087(c)(1)(ii)	Substituted "so" for "such"
725.987(c)(2)	265.1087(c)(2)	Added "the following" and definite article
725.987(c)(2), (c)(3)-(D), (c)(4)(C), (d)(2), (d)(3)(D), (d)(4)(C), (e)(2)(A), (e)(2)(B), (f), (g)(1), (g)(2), (h)(1) & (h)(2)	265.987(c)(2), (c)(3)-(iv), (c)(4)(C), (d)(2), (d)(3)(iv), (d)(4)(iii), (e)(2)(i), (e)(2)(ii), (f), (g)(1), (g)(2), (h)(1) & (h)(2)	Substituted "must" for "shall"
725.987(c)(3)(B)(i)	265.2087(c)(3)(ii)(A)	Commas added for parentheticals
*725.987(c)(5)	265.1087(c)(5)	Added English system units in parentheses; added comma for parenthetical
725.987(d)(1)(B)	265.987(d)(1)(ii)	Commas added for parenthetical
725.988(b)(3)	265.1088(b)(3)	Deleted "in the case;" added comma for parenthetical
725.988(b)(3)-(b)(4), (c)(2)(A), (c)(2)(D) & (c)(7)	265.1088(b)(3)-(b)(4), (c)(2)(i), (c)(2)(iv) & (c)(7)	Substituted "must" for "shall"
725.988(b)(3)(A)	265.1088(b)(3)(i)	Added "the purposed of;" substituted "that" for "which"
725.988(b)(3)(B)	265.1088(b)(3)(ii)	Substituted "or" for comma
725.988(c)(2)	265.1088(c)(2)	Substituted "that" for "who"
725.988(c)(2)(F)	265.1088(c)(2)(vi)	Substituted "so" for "such;" added comma for parenthetical

725.990(a), (b)(2)-(A), (b)(2)(C)(ii), (e)(1)(B), (e)(1)(E)(i) & (e)(1)(E)(ii)	265.1090(a), (b)(2)-(1), (b)(2)(iii)(B), (e)(1)(ii), (e)(1)(v)-(A) & (e)(1)(v)(B)	Substituted "must" for "shall"
725.990(a)	265.1090(a)	Added "is" for clarity; added comma for parenthetical
725.990(e)(1)(B)	265.1090(e)(1)(ii)	Added comma for parenthetical
725.990(g)	265.1090(g)	Corrected position of comma at end of quotation
*725.Appendix F	265, appendix VI	Placed chemicals in alphabetical order
*725.Appendix F	265, appendix VI	Corrected format or spelling of chemical names: 1-acetyl-2-thiourea, 3-acetyl-5-hydroxypiperidine, 2-acetylaminofluorene, 3-acetylpiperidine, 4-aminobiphenyl, 4-aminopyridine, o-anisidine, gamma-BHC, caprolactam, cellulose, 2-chloracetophenone, 3-chloro-2,5-diketopyrrolidine, p-chloro-m-cresol, p-chloroaniline, p-chlorobenzo-phenone, chlorhydrin, 4-chlorophenol, cresol, m-cresol, o-cresol, p-cresol, 4-cumylphenol, 4-cyanomethyl benzoate, 3,5-dibromo-4-hydroxybenzotrile, 2,6-dichloro-4-nitroaniline, 2,5-dichloroaniline, 2,6-dichlorobenzotrile, 2,5-dichlorophenol, 3,4-dichlorotetrahydrofuran, n,n-diethyl-aniline, n,n-diethylpropionamide, diethylene glycol monoethyl ether acetate, n,n-diethyl-hydrazine, diethylthiophosphate benzo-m-ethyl-p-ether, 2,3-dimethoxystrychnidin-10-one, 4-dimethylaminoazobenzene, 7,12-dimethylbenz(a)anthracene, 3,3-dimethylbenz-idine, 1,1-dimethylhydrazine, 4,6-dinitro-o-cresol, 1,2-diphenylhydrazine, mono-ethanolamine, 3-ethylphenol, formaldehyde, hexamethylene-1,6-diisocyanate, hydroxy-2-propionitrile, p-methoxyphenol, 1-methyl-2-methoxyaziridine, 4,4'-methylene-bis-(2-chloroaniline), 4,4-methylenedianiline, 5-methylfurfural, 4-methylthiophenol, mono-methyl formamide, alpha-naphthol, beta-naphthol, alpha-naphthylamine, beta-naphthylamine, o-nitroaniline, 2-nitrophenol, 4-nitrophenol, N-nitroso-n-methylurea, N-nitrosodimethylamine, nitrosoguanidine, N-nitrosomorpholine, m-phenylene diamine, o-

		phenylene diamine, p-phenylene diamine, 1,3-propane sulfone, beta-propiolactone, 2,4-toluene diamine, 2,4-toluene diisocyanate, 2,6-toluenediamine, 3,4-toluenediamine, p-toluic acid, m-toluidine, 1,1,2-trichloro-1,2,2-trifluoroethane, and 3,4-xylenol
*725.Appendix F	265, appendix VI	Corrected partial or provided missing CAS numbers: acetaldol, adiponitrile, atrazine, benzenesulfonic acid, caprolactam, cellulose, chlorhydrin, 1-(o-chlorophenyl)thiourea, cresol, 3,5-dibromo-4-hydroxybenzoxitrile, 2,5-dichloroaniline, diethylene glycol monobutyl ether, diethylene glycol monoethyl ether acetate, diethylene glycol monoethyl ether, diethylene glycol monomethyl ether, 3,3-dimethylbenzidine, 3,4-dimethylphenol, dimethylsulfoxide, dipropylene glycol, ethyl carbamate, ethylene glycol monoethyl ether, ethylene glycol monoethyl ether acetate, ethylene glycol monomethyl ether, ethylene glycol monophenyl ether, ethylene glycol monopropyl ether, ethylene thiourea, formamide, hexamethylene-1,6-diisocyanate, hexamethyl phosphoramidate, lead subacetate, methylene diphenyl diisocyanate, 4,4-methylenedianiline, methyl sulfuric acid, monomethyl formamide, n-nitrosomorpholine, 1,3-propane sulfone, quinone, sodium acetate, terephthalic acid, tetraethyldithiopyrophosphate, tetraethylenepentamine, m-toluidine, 1,1,2-trichloro-1,2,2-trifluoroethane, and tripropylene glycol
*725.Appendix F	265, appendix VI	Consolidated duplicate entries under multiple alternative names: ethylene glycol monobutyl ether (butyl Cellosolve), and 3,4-xylenol (3,4-dimethylphenol)
*725.Appendix F	265, appendix VI	added alternative chemical name in parentheses or primary chemical name (putting secondary name in parentheses): caprolactam (hexahydro-2h-azepin-2-one), cellulose (carboxymethylcellulose), chlorhydrin (3-chloro-1,2-propanediol), 2,5-dichloroaniline (N,N-dichloroaniline), diethylene glycol dimethyl ether (dimethyl Carbitol), diethylene glycol monobutyl ether (butyl Carbitol), diethylene glycol monoethyl ether (Carbitol Cellosolve), diethylene glycol

monomethyl ether (methyl Carbitol), dipropylene glycol (1,1'-oxydi-2-propanol), ethyl carbamate (urethane), ethylene glycol monoethyl ether acetate (Cellosolve acetate), ethylene glycol monophenyl ether (phenyl Cellosolve), ethylene glycol monopropyl ether (propyl Cellosolve), ethylene thiourea (2-imidazolidinethione), hexamethylene-1,6-diisocyanate (1,6-diisocyanatohexane), lead subacetate (lead acetate, monobasic), methylene diphenyl diisocyanate (diphenyl methane diisocyanate), monomethyl formamide (n-methylformamide), n-nitrosomorpholine (4-nitrosomorpholine), alpha-picoline (2-methyl pyridine), and quinone (p-benzoquinone)

*725.Appendix F "cresol"	265, appendix VI	Added parenthetical "mixed isomers"
*725.Appendix F "alpha-picoline"	265, appendix VI	Corrected CAS number
726.170(b)(2)	266.70(b)(2)	Changed end punctuation to a semicolon, added "and"
*728.101(c)(3)	268.1(c)(3)	Changed to singular; substituted "characteristic of hazardous waste" in place of "hazardous characteristic"
*728.101(c)(3)(A)	268.1(c)(3)(i)	Retained prior correct reference to 35 Ill. Adm. Code 704.106, rather than codify equivalent to erroneous "40 CFR 146.6"
*728.101(c)(4)	268.1(c)(4)	Changed to singular; substituted "characteristic of hazardous waste" in place of "hazardous characteristic;" deleted superfluous commas
728.101(c)(4)(A)- (c)(4)(C)	268.1(c)(4)(i)- (c)(4)(iii)	Changed to singular
*728.101(c)(4)(D)	268.1(c)(4)(iv)	Changed to singular; substituted "prohibited characteristic of hazardous waste" in place of "prohibited characteristic"
*728.101(e)(4)	268.1(e)(4)	Substituted "waste that exhibits a characteristic of hazardous waste" for "characteristic waste"

728.101(e)(4)(A)	268.1(e)(4)(i)	Changed to singular; substituted "that do not exceed" for "exceeding;" added parenthetical abbreviation "ppm"
728.101(e)(4)(B)	268.1(e)(4)(ii)	Changed to singular; substituted "that" for "which;" used possessive "waste's;" added "in;" deleted comma; and substituted "and" for "is"
728.102	268.2	Added quotation marks to defined terms
728.102 "inorganic metal-bearing waste"	268.2	Substituted "that" for "which;" added comma for parenthetical; added "which"
728.102 "stormwater impoundments"	268.2	Substituted "that" for "which;" deleted unnecessary comma; added "which"
728.102 "Underlying hazardous constituent"	268.2	Deleted unnecessary comma
*728.103(b)	268.3(b)	Changed to singular; substituted "characteristic of hazardous waste" in place of "hazardous characteristic;" substituted "that" for "which;" deleted unnecessary comma
*728.103(c)	268.3(c)	Changed "hazardous waste codes" to "waste designated by . . . waste codes;" moved prepositional phrase "at the point . . . prior to combustion"
728.103(c)(1)	268.3(c)(1)	Capitalized opening word "the"
728.103(c)(3)	268.3(c)(3)	Added comma for parenthetical; moved prepositional phrase "at point of generation;" and added definite article "the"
728.103(c)(5)	268.3(c)(5)	Added "any"
728.107(a)	268.7(a)	Added "the waste"
728.107(a)(1)(D)	268.7(a)(1)(iv)	Added closing quotation mark
728.107(a)(2) & (a)(3)	268.7(a)(2) & (a)(3)	Substituted "shall" for "must;" substituted "its" for personal pronoun "their"
728.107(b)(4)(B)	268.7(b)(4)(ii)	Added quotation marks

728.107(b)(5)(D)	268.7(b)(5)(iv)	Added parentheses
728.107(b)(5)(E)	268.7(b)(5)(v)	Added comma for series; added commas for parenthetical; substituted "and which" for "that;" added "set forth" and "the"
728.109(a)	268.9(a)	Substituted "characteristic of hazardous waste" for "hazardous characteristic;" added "waste" after "D001;" substituted "and" for "or" for greater precision in language; substituted comma and "as described" for "of;" substituted "set forth" for "found in"
728.109(d)	268.9(d)	Substituted "described" for "discussed"
728.109(d)(1)(A)	268.9(d)(1)(i)	Used singular; added "federal;" added "waste"
*728.109(d)(1)(B)	268.9(d)(1)(ii)	Used singular; substituted "waste that exhibits a characteristic of hazardous waste" for "hazardous characteristic"
728.109(d)(3)	268.9(d)(3)	Used singular; added "waste;" added "for which;" substituted "set forth" for "found;" substituted "forth" for "out"
728.109(e)	268.9(e)	Used singular; added "federal;" substituted "set forth in" for "found at"
728.109(f)	268.9(f)	Used singular; added "federal"
728.109(g)	268.9(g)	Used singular; added "waste;" substituted "that" for "which"
*728.139(a)-(c)	268.39(a)-(c)	Omitted past effective dates
*728.139(b)	268.39(b)	Added "USEPA hazardous waste number;" moved "are prohibited from land disposal;" used singular; removed unnecessary "or;" added "one" for clear reference back to "system;" added "hazardous waste;" added waste injection;" added "federal," spelled out "Clean Water Act," adding parentheses to abbreviation; substituted "that" for "which"
*728.139(d)	268.39(d)	Substituted "effective" for "on;" added "waste designated by . . . numbers;" moved "and" in series; deleted "also"

*728.139(e)	268.39(e)	Substituted "until" for past effective date; Substituted "complies" for "in compliance"
728.139(f)(2)	268.39(f)(2)	Used singular; added "conducting the disposal;" switched relative positions of "under" and "pursuant to"
728.139(f)(3)	268.39(f)(3)	Substituted "alternative" for "alternate;" added "or" at end
728.139(f)(4)	268.39(f)(4)	Used singular; added "conducting the disposal;" substituted "those" for "these"
728.139(g)	268.39(g)	Substituted "set forth" for "specified;" added "in;" substituted "a" for "the;" added "to the waste"
*728.140(g)	268.40(g)	Replaced expired provision with explanatory language
*728.App. K	268, app. XI	Placed footnote material into Board Note at head of table
728.App. K P010-P120	268, app. XI	Added ending punctuation
*728.App. K P029, P074, P087, P113, P114, P115, P119, P120 & U205	268, app. XI	Added valence where potential for ambiguity and for consistency
*728.App. K P087, P099, P104, P113, P114, P115, P119, P121, U032, U204, U205, U216 & U217	268, app. XI	Added empirical formulae for consistency
*728.App. K U204	268, app. XI	Substituted "selenous" for "selenious"
728.Table T D003	268.40 table	Substituted "that" for "which"
*728.Table T K156-K158	268.40 table	Corrected format of chemical name "iodo-2-propyl-n-butylcarbamate"
728.Table T end note 8	268.40 table	Removed unnecessary comma
*728.Table T end note 10	268.40 table	Replaced language that had expired by its own terms with explanatory language

*728.Table U end note 6	268.48(a) table	Replaced language that had expired by its own terms with explanatory language
738.101(b)	148.1(b)	Added "the following;" added "wells" and colon and divided subsection into two subsections for clarity; added "that are" and "which" for clarity
*738.101(d)	148.1(d)	Used singular; substituted "characteristic of hazardous waste" for "hazardous characteristic;" deleted unnecessary comma; added "the following is true of"
738.101(d)(1) & (d)(2)	148.1(d)(1) & (d)(2)	Used singular, added "it"
*738.101(d) Board Note	Judicial order	Removed Board Note as unnecessary in light of USEPA response to judicial mandate
738.103(a)	148.3(a)	Substituted "that" for "which"
738.103(b)	148.3(b)	Substituted "that" for "which;" omitted unnecessary comma
*738.117(c)	148.17(c)	Used explanatory language for subsection marked "reserved" by USEPA
*738.118(a)	148.18(a)	Omitted past effective date; added "having the following;" substituted inclusive listings with actual hazardous waste codes; corrected listing to "U387"
738.118(b)	148.18(b)	Omitted past effective date
*738.118(c)	148.18(c)	Added "having the following;" substituted inclusive listings with actual hazardous waste codes; corrected listing to "D043"
*738.118(d)	148.18(d)	Added "having the following;" substituted inclusive listings with actual hazardous waste codes
*738.120(a)	148.20(a)	Substituted "that exhibits" for "exhibiting;" added "of hazardous waste;" substituted "which contains" for "containing;" substituted "which no longer exhibits" for "no longer exhibiting"



Discussions of Particular General RevisionsLiquids in Landfills Amendments: An Additional Method for Testing Biodegradability--  
Sections 720.111, 724.414 & 725.414

USEPA amended 40 CFR 264.414 and 265.414 on July 11, 1995, at 60 Fed. Reg. 35705. These provisions correspond with 35 Ill. Adm. Code 724.414 and 725.414 in the Illinois regulations. The Board has made the necessary amendments by including the new Organization for Economic Cooperation and Development (OECD) Method 301B. We might add, however, that obtaining a copy of this method for incorporation by reference in Section 720.111(b) proved difficult. While the Congress apparently does not require USEPA to specify where copies of materials incorporated by reference can be obtained, the Illinois General Assembly requires that Illinois agencies spell that information out in the body of their regulations. See 5 ILCS 100/5-75 (1996). With some effort, the Board was able to obtain a copy of the "Modified Sturm Test" and the appropriate address for interested members of the regulated public to obtain the document that embodies this test. The Board invites comments on our incorporation of OECD Method 301B into the Illinois hazardous waste regulations.

Additional Clean Water Act Testing Methods--Section 720.111

USEPA amended 40 CFR 136 to add new analytical methods for testing wastewater effluents on August 2, 1995, 60 Fed. Reg. 39585; August 28, 1995, 60 Fed. Reg. 44669; and October 16, 1995, 60 Fed. Reg. 53529. 40 CFR 136 is incorporated by reference in 35 Ill. Adm. Code 720.111(b). The Board does not believe that these Clean Water Act-related amendments affect the methods used for the purposes of the RCRA Subtitle C hazardous waste program. Nevertheless, updating the version of 40 CFR 136 incorporated by reference is a simple matter, and an action the Board routinely undertakes without the advent of federal amendments, in order to assure that Illinois remains current in the version of the Code of Federal Register used. For these reasons, the Board has updated the incorporation by reference. The Board invites public comment on the updated CWA methods incorporations in Section 720.111.

Carbamate Waste Amendments/Phase III Land Disposal Restrictions--Parts 721, 728 & 738 &  
Miscellaneous Other Provisions

One of the most significant areas of federal amendments included in this consolidated docket involve the Phase III land disposal restrictions (LDRs) and carbamate wastes. These are given conjunctive consideration here because the major sets of these federal amendments included both subject matters, although some others of the actions related to only one or the other of them.

USEPA issued an interpretive rule on August 14, 1995, 60 Fed. Reg. 41817, relating to the scope of the K156 and K157 hazardous waste listings at 40 CFR 261.32 (corresponding with 35 Ill. Adm. Code 721.132). USEPA originally interpreted the phrase "carbamate production" in the listings, adopted on February 9, 1995, 60 Fed. Reg. 7824, as including only the synthesis of intermediates that have no purpose other than the production of carbamate pesticides. Several judicial lawsuits were filed challenging this interpretation, and were consolidated in Dithiocarbamate Task Force v. EPA, No. 95-1249 (D.D.C.). As a result, USEPA examined the rulemaking record and revised the interpretation in the August 14, 1995 notice. Under the revised interpretation, "carbamate production" does not include carbamate

intermediates that are produced at a site other than the site of carbamate production. Other wastes are not included in the listings.

Since USEPA did not undertake to amend its regulations as part of this reinterpretation, the Board has included no amendments to Section 721.132 on this basis. We observe that it is possible for us to include a Board Note at the K156 and K157 listings that explains the federal action, but we have chosen not to do so as part of this proposal. Rather, we take note of the federal reinterpretation in this opinion. If public comment should indicate that the inclusion of Board Notes is desirable, other proposed amendments to Section 721.132 will allow us to include appropriate notes in the adopted version of the amendments. The Board invites comment on our lack of amendatory action on the USEPA reinterpretation of "carbamate production," as used in the K156 and K157 hazardous waste listings.

USEPA adopted its Phase III LDRs on April 8, 1996, 61 Fed. Reg. 15565, and simultaneously withdrew certain segments of the amendments on the same day, 61 Fed. Reg. 15660. USEPA later adopted corrections and amendments to the Phase III LDRs on April 30, 1996, 61 Fed. Reg. 19117; June 28, 1996, 61 Fed. Reg. 33680; July 10, 1996, 61 Fed. Reg. 36419; August 26, 1996, 61 Fed. Reg. 43923; January 14, 1997, 62 Fed. Reg. 1991; and February 19, 1997, 62 Fed. Reg. 7501. Many of these amendments affected the carbamate waste listings and treatment standards, then USEPA amended the rules on June 17, 1997 to conform with the judicial mandate of Dithiocarbamate Task Force v. EPA, 98 F.3d 1394 (D.D.C. 1996). Those amendments affected only certain of the carbamate waste listings and treatment standards.

The Board incorporated these massive, overlapping federal amendments into the Illinois RCRA Subtitle C regulations, but not without significant effort. This effort was in part the result of the sheer volume of the amendments, but was compounded by the way USEPA accomplished the amendments. While it is USEPA's usual practice to focus primarily on the segments of its rules under amendment in its Federal Register notices, USEPA has had apparent difficulty with the Government Printing Office properly incorporating the final amendments into the annual Code of Federal Regulations updates. USEPA resolved its problems by publishing the entire text of its rules under amendment in its Register notices. For example, the Board found it necessary to review the entire text of the tables to 40 CFR 268.40 and 268.48 (corresponding with 35 Ill. Adm. Code 728.Table T and 728.Table U) for each of the sets of amendments for April 8, 1996 and February 19, 1997, which is over 50 pages of text each time, just to locate the limited amendments. This was a very time-consuming task that would have been obviated had USEPA adhered to its normal practice of reproducing the text on a more limited basis in the Federal Register.

The Board incorporated the federal amendments with minor deviation from the original. The deviations are outlined in brief above, beginning on page 21 of this opinion. Rewording was necessary for several segments of the 40 CFR part 268 (corresponding with 35 Ill. Adm. Code 728) rules. Some of the revisions warrant specific mention. We preferred the greater precision of language of using the singular case in Sections 728.101(c)(3), (c)(4), and (e)(4); 728.103(b); 728.109(d) through (g); and 728.139(f). We similarly preferred the usage "characteristic of hazardous waste" to "hazardous characteristic" and used that in Sections 728.103(b) and (c) and 728.109(a) and (d). The Board used "waste that exhibits a characteristic of hazardous waste" for enhanced clarity over "hazardous characteristic" in Section 728.109(d)(1)(B). We opted to add language in Sections 728.103, 728.109 to refer to "waste" as the object, rather than to leave the waste code as the object of the requirements.

The Board followed its standard practice of omitting past effective dates in Section 738.139, since they are meaningless and potentially confusing, since these amendments will not take effect as Illinois law until filed with the Secretary of State. This meant the insertion of non-substantive explanatory language in place of expired federal provisions as Sections 728.140(g); 728.Table T, note 10; and 728.Table U, note 6. The Board also used the more grammatically precise "alternative" in place of "alternate" in Sections 728.139(f)(3) and 728.Table T. The Board corrected the format of the chemical name "iodo-2-propyl-n-butylcarbamate" in Section 728.Table T.

The Board found further alterations necessary to Section 728.Appendix K, based on new 40 CFR 268, appendix XI. We moved footnote text into a Board Note at the head of the table, so that it was encountered at that location, rather than leaving a footnote marking appended to the Section heading and leaving the text at the end of the table. We added the valence numbers and empirical formulae for substances for consistency and to avoid possible ambiguity. Finally, we corrected "selenious" to "selenous."

The Board made a few limited revisions to the UIC provisions of Part 738. As a result of the USEPA response to the judicial mandate in Chemical Waste Management, Inc. v. EPA, 976 F.2d 2 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 1057, 113 S. Ct. 1961 (1993), the Board removed the Board note to Section 738.101 that mentioned this decision. Similar to Part 728, the Board used "characteristic of hazardous waste" in Section 738.101(d) and omitted past effective dates in Sections 738.118(a) and (b). We inserted explanatory non-substantive explanatory language in place of "reserved" at Section 738.117(c), in order to maintain structural parity with 40 CFR 148.17. The Board further corrected the listing of "U387" at Section 738.118(a) and that of "D043" at Section 738.118(c). In Section 738.118(d), we added "having the following," so that "wastes" became the subject of the requirement, rather than "codes," and at Section 738.120(a) our substitutions avoid the use of "exhibiting."

The Board invites comment on our incorporation of the Phase III LDRs into the Illinois RCRA Subtitle C program. We also invite comment on how we have incorporated the associated carbamate waste amendments. We specifically invite comment on the numerous shifts in language we have chosen to overcome some of the deficiencies we perceive in the federal original.

Expanded Public Participation Procedural Amendments--Sections 702.110, 703.183, 703.223, 703.225, 703.232, 703.248 &703.191 through 703.193

USEPA amended its RCRA Subtitle C permitting procedures on December 11, 1995, 60 Fed. Reg. 63417, in its effort to enhance opportunities for public participation in RCRA Subtitle permitting. The amendments impose various new public notice and recordkeeping requirements on persons wishing to apply for a RCRA permit and on those who hold such a permit, for up to the permitted lifetime of the subject facility. USEPA added new subpart B to 40 CFR 124, which includes sections 124.31 through 124.33, and amended 40 CFR 270.2, 270.14, 270.30, 270.61, 270.62, and 270.66. The Board added 40 CFR 124.31 through 124.33 as 35 Ill. Adm. Code 703.191 through 703.193, and amended corresponding 35 Ill. Adm. Code 702.110, 703.183, 703.223, 703.225, 703.232, and 703.248. No amendment was necessary to 35 Ill. Adm. Code 703.221 to correspond with 40 CFR 270.61 because the cross-reference corrected by USEPA was not in error in the Illinois rule.

The Board incorporated the federal amendments into the Illinois rules with only the minor revisions outlined above, beginning on page 21 of this opinion. There are only a small number of revisions that warrant additional elaboration for the purposes of eliciting public comment.

The first revisions to the federal language relate to the addition of language directing the permittee to the "Agency regional office appropriate to the facility, as directed by the Agency" in Sections 703.192(b)(2)(B), 703.193(b)(2) and (f)(2)(B), and 703.232(d)(3)(B)(ii) and (g). The existing regulations do not include an outline of the Agency's regional offices and the areas of the state that they cover. The Board did not more specifically direct attention to the Agency regional offices for this reason. Alternatively, the Board could have simply directed the permittee to the Agency's headquarters in Springfield.

Other sets of revisions are intended to add clarity and specificity to the federal language. One such revision was the substitution of 10 days, a time-certain for "a reasonable time" in Sections 703.192(b)(2) and 703.193(b)(2), which we believe is necessary to add the specificity required to aid the enforceability of these provisions. The choice of a time-certain is the primary intent, although the Board acknowledges that a different length of time might serve to add the same degree of specificity. Similarly, the Board used "determines" rather than "finds" in Section 703.193(d), made a similar addition relating to an Agency determination at Section 703.193(f), and added "for the applicant" to Section 703.193(e), in order to add specificity to the language.

The Board invites comment on our codification of the public participation amendments prompted by the federal December 11, 1995 action. We specifically request comment on those areas where we have deviated from the federal regulatory language, as outlined above.

Amendments to the Organic Material Emissions Rules for Tanks, Containers, and Surface Impoundments--Subparts CC to Parts 724 and 725 and Related Provisions

USEPA made a set of clarifying amendments to its rules regulating the emission of organic material from hazardous waste tanks, containers, and surface impoundments on February 9, 1996, 61 Fed. Reg. 4903. Since these rules are codified as 40 CFR 264, subpart CC and 265, subpart CC (corresponding with 35 Ill. Adm. Code 724.Subpart CC and 725.Subpart CC), these rules are called the "Subpart CC" rules. The stated purpose of the February amendments was to clarify the final standards and to correct various typographical and grammatical errors. USEPA subsequently largely rewrote the Subpart CC rules and made various associated amendments in a November 25, 1996, 61 Fed. Reg. 59932, rulemaking, which it called its final amendments. USEPA made these amendments in response to numerous adverse public comments it received in the wake of its December 6, 1994 adoption of the original Subpart CC rules.

The Board will not outline the numerous Sections of the rules affected by the February 9 and November 25, 1996 federal Subpart CC amendments. In order to assure that we completely captured the federal amendments, the Board systematically incorporated the first set, then did the second, which often meant obliteration of the original changes. In making the amendments, there were a number of revisions the Board made to the federal text, which are outlined above beginning on page 21 of this opinion.

The Board wants to note the difficulty the November 25, 1996 federal amendments

posed for us. As mentioned above, USEPA's usual practice is to reprint in its Federal Register notices only those segments of its rules that it is amending. In the November 25, 1996 notice, though, USEPA reprinted 40 CFR 264, subpart CC and 265, subpart CC nearly in their entirety. This required very detailed and painstaking review of that text to focus on the actual amendments that occurred. Nothing requires USEPA to highlight its amendments in the Federal Register in the same way the Board must use underlining and strike-through in our Illinois Register notices. Our review of the text of the federal amendments revealed that USEPA extensively rewrote some segments of the Subpart CC rules, while other segments contained only minor amendments. The extent of the substantive revisions is actually less than would appear from the face of USEPA's Federal Register notice.

It would have been a simple matter for the Board to simply strike-through the existing text of 35 Ill. Adm. Code 724.Subpart CC and 725.Subpart CC and add the newly-amended federal text with underlining. However, because we wish to indicate the nature of the changes being made in the amendments with greater specificity, we have highlighted the specific changes. This has cost us considerable effort and time, but the Board hopes the effort allows the regulated community to more readily focus on the actual changes in the rules than would have been otherwise possible.

The Board will make specific mention of some of these deviations below for the purposes of public comment. The Board usually renders federal regulatory text as regulatory text and adds supplemental material in Board notes. We do this so as not to imply that federally-derived regulatory text is somehow subordinate or less mandatory. In making these amendments, however, the Board has found it necessary to deviate from this practice for the very reasons that we usually adhere to it. At 40 CFR 264.1082(c)(2)(v)(B) and 265.1083(c)(2)(v)(B) (corresponding with 35 Ill. Adm. Code 724.982(c)(2)(E)(ii) and 725.983(c)(2)(E)(ii)), USEPA included certain language relating to an equipment configuration that it considers acceptable. In adding this language, the Board placed it in a Board note because it is a mere example, rather than a regulatory requirement, and we view such illustrative information as more appropriate to a note than to the regulatory text. If USEPA were to change its mind at some future time on this point, the Board does not want the appearance of language in the regulatory text to have a limiting effect.

Another set of deviations from the federal text is the addition of English units in parentheses. The Board has done this because english units are still used by engineers in this country. In adding the English units, the Board has attempted to retain the same number of significant digits as appear in the metric units used by USEPA. To the extent there is any minor deviation between the federal metric units given in the text and the English units given in parentheses, however, the Board intends that the metric units act as the primary standard. The Board made these additions at Sections 724.982(c)(5)(A); 724.984(b)(1)(A)(ii), (f)(1)(B)(i), and (f)(3)(D)(ii); 724.985(c)(1)(B)(i); 724.986 (b)(1)(A) through (b)(2) and (c)(5); 725.981 (two definitions); 725.983(c)(5)(A); 725.985(b)(1)(A)(ii), (f)(1)(B)(i), and (f)(3)(D)(ii); 725.986(c)(1)(B)(i); 725.987 (b)(1)(A) through (b)(2) and (c)(5).

A third set of limited deviations is from the format of the federal text is forced on us by the Illinois Administrative Code codification requirements. At 40 CFR 264.1084(f)(3)(i)(D) and 265.1084(a)(3)(iii)(F) and (b)(3)(iii)(F) (corresponding with 35 Ill. Adm. Code 724.984(f)(3)(A)(iv) and 725.984(a)(3)(C)(vi) and (b)(3)(C)(vi)), USEPA used five levels of indents. The Board may use only four levels. For this reason, we moved included a cross reference where the federal language originally appeared in the rules and moved the fifth

indent level text down to the next adequate available subsections, which were Sections 724.984(f)(3)(D) and 725.984(b)(3)(E). We added Board notes at these locations with an appropriate explanation of the movement.

The fourth set of revisions to the federal text are less limited and are a bit more problematic to the Board. These involve the codification of new 40 CFR 265, appendix VI as 35 Ill. Adm. Code 725.Appendix F. This new table sets forth those chemicals that USEPA has deemed by rule to have a Henry's law constant sufficiently low that certain testing need not be performed for these materials. The problem is that the information set forth is largely fragmentary and contains a number of inaccuracies. Because a listing in this table is essentially a regulatory "break" for regulated entities, the Board has tried very hard to make sense of the information. We have tried to correct the format and spelling of numerous chemical names, we have eliminated duplicate entries, and we have added missing CAS numbers. The chemicals affected are listed above at pages 39 through 41 of this opinion. Despite our efforts, including attempts to contact various persons at USEPA, the Board was unable to identify one chemical compound from the information given. It is set forth as "diethylthiophosphate benzo m ethyl pether." The Board will exert further effort to seek identification of this material from USEPA before final adoption of the amendments.

The Board requests comment on the our approach to the Subpart CC amendments, especially in those areas where we have deviated from the test of the underlying federal regulations. We specifically request that any person who can identify "diethylthiophosphate benzo m ethyl pether" do so for the benefit of those members of the regulated community in Illinois that may be managing this waste in tanks, containers, or surface impoundments.

#### Exclusion of Recovered Oil from the Definition of Solid Waste--Section 721.104

USEPA adopted an amendment to the 40 CFR 261.4 definition of solid waste on March 26, 1996, 61 Fed. Reg. 13103. The amendment corrected an error in the exemption of certain recovered oil from the definition, which in essence renders the subject material exempt from regulation under RCRA Subtitle C. The error was in the location where this material can be inserted into the refining process, and it unnecessarily restricted the legitimate reclamation of this material. The Board has made the necessary amendments with only minimal deviation from the text of the federal rule for the sake of enhanced clarity. The Board requests comment on our amendment to the definition of solid waste for recovered oil.

#### Amended Import and Export Requirements to Implement the OECD Council Decision-- Sections 721.106, 722.110, 722.153, 722.156, 722.158, 722.180-722.189, 723.110, 723.120, 724.112, 724.171, 725.112, 725.171, 726.170, 733.120, 733.140, 733.156 & 733.170

On April 12, 1996, 61 Fed. Reg. 16289, USEPA adopted amendments to its RCRA Subtitle C regulations in order to implement Organization for Economic Cooperation and Development (OECD) Council Decision C(92)39, relating to the international shipment of hazardous waste for recovery. The Board has included corresponding amendments to the Illinois RCRA Subtitle C regulations in this proposal for the sake of eliciting public comments on the rules. The Board has included these amendments despite the fact that USEPA made it very clear in adopting the OECD Decision-based import-export rules that the states play a very limited role in regulating international shipments. USEPA explained that the existing export requirements of 40 CFR 262, subpart E are administered exclusively by the federal government, and that this is the continuing situation with regard to the OECD Decision-based

rules. *Cf.* 61 Fed. Reg. 16307 (Apr. 12, 1996); 45 Fed. Reg. 33141 (May 19, 1980).

The Board is disinclined to adopt the OECD Decision-based rules for these reasons. We have included them in this proposal for the purposes of public comment in the event such comment would provide a reason to incorporate them into the Illinois RCRA Subtitle C regulations. We note that in adopting the original RCRA Subtitle C rules in 1982, we removed a provision relating to notification of international shipments in response to a public comment that highlighted the very limited role of the state in this area. See R81-22: In the Matter of: Proposed Regulations for "RCRA" (Chapters 7 and 9) at 34-35 (Feb. 4, 1982).

On the other hand, it is possible that maintaining parity with the federal rules would provide some benefits. It could give members of the regulated community a single location to assess the requirements applicable to its hazardous waste activities. If desired, it could serve to give the Agency notice of international shipments when they occur. Further, it would make the ongoing job of assuring that the Illinois rules do not become less stringent than the federal rules a bit easier. For example, Section 722.110 was amended in this federal rulemaking to require manifesting for both imports and exports of hazardous waste. This appears to be a set of amendments whose absence would render the Illinois rules less stringent than the federal rules.

In incorporating the OECD Decision-based amendments, the Board has made minor modifications to the federal text. We note specifically that we have rendered each of the notification requirements as a dual notification requirement: we require the requirement in the federal rules that USEPA receive notification, and we have added a requirement for notification of the Agency. We note also that one minor problem exists in incorporating the federally-sanctioned OECD lists of green, amber, and red list wastes. USEPA incorporates the existing lists and subsequent amendments, but the Illinois Administrative Procedure Act, 5 ILCS 100/5-45 (1996), expressly prohibits the incorporation of future editions or revisions, and it requires the Board to maintain a copy of the incorporated document for public inspection. This could present a problem as the OECD lists are updated if USEPA does not update its incorporations by reference to reflect the updates.

The Board requests public comment on our inclusion of the OECD Decision-derived regulations in this update. We specifically request comment on whether we should include the rules on adoption of final amendments; on whether we should incorporate dual notification of USEPA and the Agency into the rules; and on the incorporation of the 1993 versions of the OECD green, amber, and red lists by reference.

#### 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
- 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
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. USEPA granted Illinois Phase I authorization on May 17, 1982, at 47 Fed. Reg. 21043. The Board adopted RCRA Subtitle C Phase II regulations in Parts 703 and 724 in dockets R82-19 and R83-24. USEPA granted final authorization of the Illinois RCRA Subtitle C "base program" on January 31, 1986, at 51 Fed. Reg. 3778 (January 30, 1986). USEPA granted authorization to "Cluster I revisions" to the Illinois program and granted partial Hazardous and Solid Waste Amendments (HSWA) (Pub. L. 98-616, Nov. 8, 1984) authorization effective March 5, 1988, at 53 Fed. Reg. 126 (January 5, 1988). USEPA authorized certain subsequent amendments and granted further partial HSWA authorizations effective April 30, 1990, at 55 Fed. Reg. 7320 (March 1, 1990), and June 3, 1991, at 56 Fed. Reg. 13595 (April 3, 1991); August 14, 1994, at 59 Fed. Reg. 30525 (June 14, 1994); and May 14, 1996, at 61 Fed. Reg. 10684 (Mar. 15, 1996). USEPA codified its approvals of the Illinois program at 40 CFR 272.700 and 272.701 on November 13, 1989, at 54 Fed. Reg. 37649 (Sep. 12, 1989), and on March 31, 1992, at 57 Fed. Reg. 3731 (Jan. 31, 1992). The entire listing of all RCRA Subtitle C identical in substance rulemakings follows (with the period of corresponding federal revisions indicated in parentheses):

R81-22	45 PCB 317, September 16, 1981 & 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 <sup>4</sup>	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<sup>1</sup> 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 & 521, June 13 & 27, 1985; 9 Ill. Reg. 11964, August 2, 1985, effective July 8 & 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)
- 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 & 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)

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<sup>1</sup> 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).

- 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 & 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 This docket. (Consolidated with R97-3, UIC Update, and R97-5, RCRA Subtitle C update.) (7/1/95 through 12/31/95)
- R97-5 This docket. (Consolidated with R96-10, RCRA Subtitle C update, and R97-3, UIC Update.) (1/1/96 through 6/30/96)
- R97-21 Next docket. (7/1/96 through 12/31/96)

R98-5 Subsequent to next docket. (1/1/97 through 6/30/97)

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).)

#### 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. USEPA authorized the Illinois UIC program on March 3, 1984, at 49 Fed. Reg. 3991 (Feb. 1, 1984); codified that approval as 40 CFR 147, Subpart O, at 49 Fed. Reg. 20197 (May 11, 1984); and amended the authorization at 53 Fed. Reg. 43087 (Oct. 25, 1988). 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 & 71 PCB 108, June 20 & July 11, 1986; 10 Ill. Reg. 13274, August 8, 1986, effective July 28 & 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 & 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 This docket. (Consolidated with R96-10 & 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 Next Docket. (1/1/97 through 6/30/97)

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)

#### 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:

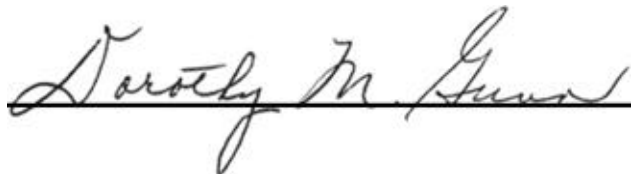
1. Is the person making the decision applying a Board regulation, or taking action contrary to ("waiving") a Board regulation? It generally takes some form of Board action to "waive" a Board regulation.
2. Is there a clear standard for action such that the Board can give meaningful review to an Agency decision?
3. Does the action result in exemption from the permit requirement itself? If so, Board action is generally required.
4. Does the decision amount 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.

#### EDITORIAL CONVENTIONS

As a final note, 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 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."

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the above opinion was adopted on the 24<sup>th</sup> day of July 1997, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board



