

ILLINOIS POLLUTION CONTROL BOARD  
April 8, 1999

IN THE MATTER OF: )  
 )  
RCRA UPDATE, USEPA REGULATIONS ) R99-15  
(July 1, 1998, through December 31, 1998) ) (Identical-in-Substance  
 ) Rulemaking - Land

Proposed Rule. Proposal for Public Comment.

OPINION OF THE BOARD (by E.Z. Kezelis):

Under Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (1998)), the Board proposes amendments to the Illinois regulations that are “identical-in-substance” to hazardous waste regulations that the United States Environmental Protection Agency (USEPA) adopted to implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C), 42 U.S.C. §§ 6921 *et seq.* (1998). The nominal timeframe of this docket includes federal RCRA Subtitle C amendments that USEPA adopted in the period July 1, 1998, through December 31, 1998. However, this docket also considers a specified action taken after December 31, 1998, on which the Board will act without delay.

Section 22.4(a) provides for quick adoption of regulations that are “identical-in-substance” to federal regulations that USEPA adopts to implement Sections 3001 through 3005 of RCRA, 42 U.S.C. §§ 6921-6925 (1998). Section 22.4(a) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35, and 5-40 (1996)) do not apply to the Board’s adoption of identical-in-substance regulations. The federal RCRA Subtitle C regulations are found at 40 C.F.R. 260 through 266, 268, 270, 271, 273, and 279.

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

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

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

Docket R99-15: July 1, 1998, through December 31, 1998, RCRA Subtitle C  
Amendments

USEPA amended the federal RCRA Subtitle C regulations on 12 occasions during the period July 1, 1998, through December 31, 1998. Each is summarized below, together with a description of the Board action that is required, if any:

63 Fed. Reg. 37780 (July 14, 1998)

USEPA withdrew segments of a May 6, 1998 direct final rule that drew adverse comment. The Board adopted corresponding amendments to the Illinois regulations in its opinion and order of December 17, 1998, in consolidated docket R98-21/R99-2/R99-7. No further Board action is required.

63 Fed. Reg. 42109 (August 6, 1998)

USEPA adopted new waste listings and land disposal restrictions (LDRs) for petroleum wastes, including certain exclusions from regulation as hazardous waste. The Board incorporated all but one segment of the RCRA Subtitle C amendments in its opinion and order of December 17, 1998, in consolidated docket R98-21/R99-2/R99-7; the Board must complete the action with regard to one minor segment of the federal amendments.

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

USEPA adopted corrections to the May 4, 1998, organobromine production waste rules; the May 26, 1998, Phase IV LDRs; and the June 29, 1998, organobromine waste technical amendments. The Board adopted corresponding amendments to the Illinois regulations in its opinion and order of December 17, 1998, in consolidated docket R98-21/R99-2/R99-7. No further Board action is required.

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

USEPA adopted technical amendments to the May 4, 1998, organobromine waste rules. The technical amendments affected the RCRA Subtitle C aspects of the May 4, 1998, action. The Board adopted corresponding amendments to the Illinois regulations in its opinion and order of December 17, 1998, in consolidated docket R98-21/R99-2/R99-7. No further Board action is required.

63 Fed. Reg. 47409 (September 4, 1998)

USEPA changed the effective dates and adopted emergency amendments to the LDRs applicable to several carbamate wastes and waste constituents. The Board must take corresponding action to amend the Illinois regulations.

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

USEPA issued an extension of the Phase IV LDR compliance deadline, until November 26, 1998, for certain limited metal-bearing wastes. The Board adopted corresponding amendments to the Illinois regulations in its opinion and order of December 17, 1998, in consolidated docket R98-21/R99-2/R99-7. No further Board action is required.

63 Fed. Reg. 51253 (September 24, 1998)

USEPA adopted LDR treatment standards applicable to spent potliners from primary aluminum production. The Board must take corresponding action to amend the Illinois regulations.

63 Fed. Reg. 54356 (October 9, 1998)

USEPA changed the compliance deadline of the August 6, 1998 petroleum waste rules until December 8, 1998. The Board does not need to take action on this past effective date.

63 Fed. Reg. 56709 (October 22, 1998)

USEPA amended the treatment, storage, and disposal facility standards to allow states to use mechanisms other than permits to approve facility post-closure care plans and to allow the closure of certain units through the corrective action program. The Board must take corresponding action to amend the Illinois regulations. The Board believes that this “alternative mechanisms” action is significant due to its impact on certain State initiatives.

63 Fed. Reg. 64371 (November 19, 1998)

USEPA issued a final decision not to list 14 waste solvents as hazardous waste. The determination resulted in no amendments to the federal RCRA Subtitle C rules, so no Board action is required in this matter.

63 Fed. Reg. 65873 (November 30, 1998)

USEPA adopted new remedial action plan (RAP) requirements applicable to the treatment, storage, or disposal of hazardous remediation wastes during cleanup actions. The Board must take corresponding action to amend the Illinois regulations.

63 Fed. Reg. 71225 (December 24, 1998)

USEPA adopted corrective and clarifying amendments to the May 11, 1995 (60 Fed. Reg. 25492) universal waste rule. The amendments correct aspects of the standards for spent lead-acid battery management and the definition of small quantity universal waste handler, and they clarify the export requirements for destination facilities that are universal waste handlers. The Board must take corresponding action to amend the Illinois regulations.

Later RCRA Subtitle C (Hazardous Waste) Amendments of Interest

The Board engages in ongoing monitoring of federal actions. As of the date of this opinion and order, we have identified two USEPA actions since December 31, 1998, that further amend the RCRA Subtitle C hazardous waste rules. When the Board observes an action outside the nominal timeframe of a docket that would require expedited consideration in the pending docket, the Board will expedite consideration of those amendments. Federal actions that could warrant expedited consideration include those that directly affect the amendments involved in this docket, those for which compelling considerations would warrant consideration as soon as possible, and those for which the Board has received a request for expedited consideration. The Board identified the following federal actions since the December 31, 1998 end date of the present update docket R99-15:

64 Fed. Reg. 3382 (January 21, 1999)

USEPA adopted technical amendments and corrections to the December 6, 1994 (59 Fed. Reg. 62896) "Subpart CC" organic material emission rules applicable to hazardous waste tanks, containers, and surface impoundments. The amendments clarify aspects of the rules and restore requirements inadvertently deleted in previous amendments.

64 Fed. Reg. 6806 (February 11, 1999)

USEPA adopted amendments to the exclusions from the definition of hazardous waste that have the effect of deferring regulation of certain materials as hazardous waste until February 13, 2001. The wastes affected are landfill leachate and landfill gas condensate derived from previously-disposed petroleum refining wastes (USEPA hazardous waste codes K169 through K172, originally listed on August 6, 1998 (63 Fed. Reg. 42110), effective February 6, 1999, and adopted by the Board on December 17, 1998, in consolidated update docket R98-21/R99-2/R99-7, effective January 19, 1999).

With respect to the January 21, 1999 federal Subpart CC amendments, the Board can find no reason to give them expedited consideration. The Subpart CC rules are not affected by this docket; no compelling reasons to expedite consideration of these amendments exist; and the Board has received no request to do so. Therefore, the Board will address the January 21, 1999 amendments in the next RCRA Subtitle C update docket, which will cover the period January 1, 1999, through June 30, 1999.

The situation is different for the February 11, 1999 amendments to the exclusions from hazardous waste management. The Board finds that there are compelling reasons to give these amendments expedited consideration in this docket R99-15, rather than waiting until the next update docket. The listings are newly adopted in the prior RCRA Subtitle C update docket R98-21/R99-2/R99-7. USEPA has adopted the exclusion for the four wastes until February 13, 2001. That means that there will be no exclusion of these wastes in Illinois until the Board acts to adopt the federal deferral of regulation. Until the Board adopts the deferral, the Illinois hazardous waste rules will remain more stringent than their federal counterparts. This imposes an undesirable disproportionate regulatory burden on entities in Illinois. Further, the February 11, 1999 amendments affect 40 C.F.R. 261.4, whose counterpart in the Illinois regulations is 35 Ill. Adm. Code 721.104. That Section is already involved in this proceeding. For these reasons, the Board will grant expedited consideration of the February 11, 1999 federal amendments in this docket R99-15.

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

In addition to the amendments to the federal RCRA Subtitle C regulations, other, unrelated federal amendments might have an effect on the corresponding Illinois rules. Most notably, 35 Ill. Adm. Code 720.111 includes several incorporations of federal regulations by reference, and USEPA has amended 40 C.F.R. 136, which is included among the incorporated

references. The federal amendments to 40 C.F.R. 136 are as follows, along with a description of the Board action each requires, if any:

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

USEPA published a correction to 40 C.F.R. 136.3(e) table, as published on July 1, 1997. The Illinois hazardous waste rules incorporate 40 C.F.R. 136 by reference at 35 Ill. Adm. Code 720.111. The Board adopted corresponding amendments to the Illinois regulations in its opinion and order of December 17, 1998, in consolidated docket R98-21/R99-2/R99-7. No further Board action is required.

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

USEPA published a correction to 40 C.F.R. 136.3(e) table, as published on July 1, 1997. The Illinois hazardous waste rules incorporate 40 C.F.R. 136 by reference at 35 Ill. Adm. Code 720.111. The Board adopted corresponding amendments to the Illinois regulations in its opinion and order of December 17, 1998, in consolidated docket R98-21/R99-2/R99-7. No further Board action is required.

63 Fed. Reg. 50387 (September 21, 1998)

USEPA adopted effluent discharge and wastewater pretreatment standards for the pharmaceutical manufacturing industry sector. This included amendment of 40 C.F.R. 136, which is incorporated by reference in 35 Ill. Adm. Code 720.111(b). The Board must update the reference to reflect these amendments.

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

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

63 Fed. Reg. 42109 (August 6, 1998)	New petroleum waste listings and LDRs. (Completion of action taken in prior consolidated update docket R98-21/R99-2/R99-7.)
63 Fed. Reg. 47409 (September 4, 1998)	Carbamate waste LDRs, changed effective dates, and emergency amendments.
63 Fed. Reg. 50387 (September 21, 1998)	40 C.F.R. 136 amendment.
63 Fed. Reg. 51253 (September 24, 1998)	Primary aluminum production spent potliner LDRs.
63 Fed. Reg. 56709 (October 22, 1998)	Mechanisms other than permits for closure and post-closure care.
63 Fed. Reg. 65873 (November 30, 1998)	Hazardous remediation wastes.
63 Fed. Reg. 71225 (December 24, 1998)	Universal waste rule corrections and clarifications.
64 Fed. Reg. 6806 (February 11, 1999)	Previously-disposed petroleum refining waste exclusion.

## 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.

## DISCUSSION

The following discussion begins with a description of the types of deviations the Board makes from the literal text of federal regulations in adopting identical-in-substance rules. It is followed by a discussion of the amendments and actions undertaken in direct response to the federal actions involved in this proceeding. This first series of discussions is organized by federal subject matter, generally appearing in chronological order of the significant *Federal Register* notices involved. Finally, this discussion closes with a description of the amendments and actions that are not directly derived from the federal actions.

### General Revisions and Deviations from the Federal Text

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

In addition to the amendments derived from federal amendments, the Board often finds it necessary to alter the text of various passages of the existing rules as provisions are opened for update in response to USEPA actions. This involves correcting deficiencies, clarifying provisions, and making other changes that are necessary to establish a clear set of rules that closely parallel the corresponding federal requirements within the codification scheme of the Illinois Administrative Code.

The Board updates the citations to the Code of Federal Regulations to the most recent version available. As of the date of this opinion, the most recent version of the Code of Federal Regulations available to the Board is the July 1, 1998 version. Thus, we have updated all citations to the 1998 version, adding references to later amendments using their appropriate *Federal Register* citation, where necessary.

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

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

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

The Board has assembled tables to aid location of those alterations and to briefly outline their intended purpose. The tables set forth the miscellaneous deviations from the federal text and corrections to the pre-amended base text of the rules in detail. The tables are set forth and explained toward the end of this opinion, beginning at page 16. There is no further discussion of most of the deviations and revisions elsewhere in this opinion.

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

### Discussion of Particular Federal Actions

#### Petroleum Waste Hazardous Waste Listings—Section 726.200

USEPA added four new hazardous waste listings for wastes generated in petroleum refining on August 6, 1998 (63 Fed. Reg. 42109). (USEPA subsequently corrected the effective date of these listings on October 9, 1998 (63 Fed. Reg. 54356).) The Board included nearly all of those amendments in the prior consolidated hazardous waste update docket, R98-21/R99-2/R99-7, adopted on December 17, 1998. The Board could not complete

the amendments, however, since Part 726 was not open in that docket. We now complete the incorporation of the August 6, 1998 federal amendments by including an amendment to 35 Ill. Adm. Code 726.200(b)(3) (corresponding with 40 C.F.R. 266.100(b)(3)). We have done so without deviation from the text of the federal amendments.

The Board requests public comment on completion of the August 6, 1998 federal amendments by amendment of Section 726.200.

Emergency Amendments to the Carbamate Waste LDRs—Sections 728.140, 728.Table T, and 728.Table U

On September 4, 1998 (63 Fed. Reg. 47409), USEPA changed the effective dates and adopted emergency amendments to the LDRs applicable to several carbamate wastes and waste constituents. USEPA adopted the carbamate waste rules on April 8, 1996 (61 Fed. Reg. 15583). The waste treatment industry later confronted USEPA with the fact that no analytical methods exist to test for the presence of a number of the carbamate wastes, making it impossible to test and demonstrate compliance with the corresponding waste treatment standards. In response, USEPA amended its rules to indefinitely extend the alternative treatment standards for seven carbamate waste constituents and deleted the treatment standard for another waste constituent. The amendments further deleted the eight waste constituents from the listing of underlying hazardous constituents. Finally, the amendments clarify that numerical standards again apply to another 32 carbamate waste constituents after the August 26, 1998 expiration of the temporary alternative standards for the 40 carbamate waste constituents. Persons interested in further consideration of the substance of the federal action should refer to the *Federal Register* notices cited above.

The Board incorporated the September 4, 1998 federal carbamate waste amendments without significant deviation from the federal text. The tables beginning at page 16 indicate the revisions made in the verbatim wording of the federal amendments. However, we did find it necessary to renumber what USEPA designated as 40 C.F.R. 268.40(i) to corresponding 35 Ill. Adm. Code 728.140(j). USEPA added 40 C.F.R. 268.40(i) at 63 Fed. Reg. 46331 (Aug. 31, 1998) to stay the Phase IV LDRs, as they apply to zinc-containing fertilizers, while it develops a more comprehensive set of regulations. Then in the September 4, 1998 amendments, USEPA added another subsection (i). The Board corrected this apparent error. The deviations from the text of the federal amendments appear in the table that begins at page 16 of this opinion.

The Board requests public comment on our treatment of the carbamate waste amendments. We request specific attention to the issues outlined in the foregoing discussion.

LDR for Spent Potliners from Primary Aluminum Reduction—Sections 728.139, and 728.Table T

USEPA adopted an LDR treatment standard for spent potliners from primary aluminum production (USEPA hazardous waste number K088) on September 24, 1998 (63 Fed. Reg.



51253). USEPA originally imposed an LDR on the spent potliners on April 8, 1996 (61 Fed. Reg. 15566), simultaneously establishing a national capacity variance that allowed the continued temporary land disposal of the waste. Litigation subsequently resulted in a court overturning the LDR, in *Columbia Falls Aluminum Co. v. EPA*, 139 F.3d 914 (D.C. Cir. 1998). In response, USEPA adopted the interim replacement treatment standard on September 24, 1998, which will remain in effect until USEPA can complete its review and establish a permanent standard. Persons interested in the details of the September 24, 1998 federal action should refer to the cited *Federal Register* notices.

The Board has incorporated the amendments to Table T of Part 728 prompted by the amendments to the corresponding 40 C.F.R. 268.40 table. The tables beginning at page 16 indicate the revisions made in the verbatim wording of the federal amendments. The only deviation from the text of the September 24, 1998 federal amendments was that no amendment was necessary to Section 728.139(c). USEPA amended 40 C.F.R. 268.39(c) to reinstitute the provision with a changed effective date of July 8, 1997 to September 24, 1998. There is no effective date codified into Section 728.139(c), and September 24, 1998, is a past effective date. Therefore, no Board action is necessary to incorporate the federal amendments to this Section.

The table beginning at page 16 indicates the revisions made in the base text of the regulations and to the verbatim wording of the federal amendments. The Board requests public comment on the spent aluminum potliner amendments.

Alternative Methods for Facility Closure and Post-Closure Care—Sections 703.121, 703.161, 703.182, 703.214, 724.190, 724.210, 724.212, 724.218, 724.240, 725.190, 725.210, 725.212, 725.218, 725.221, and 725.240

On October 22, 1998 (63 Fed. Reg. 56709), USEPA adopted a series of amendments that allow greater regulatory flexibility. The amendments allow USEPA and the states to authorize closure and post-closure care measures for hazardous waste treatment, storage, and disposal facilities by means other than by a RCRA permit. USEPA and the states may use statutory and regulatory “enforceable authorities” not related to RCRA to allow certain measures at affected sites. This would, in part, reduce the potential for conflict between the RCRA closure requirements and an alternative corrective action program. The amendments include requirements for information submissions for RCRA Part B post-closure care permits. Examples of alternative federal authorities given by USEPA are RCRA section 3008(h), 42 U.S.C. 6928(h) (1998), corrective action orders and cleanup orders under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9606 (1998), as well as comparable state authorities. (40 C.F.R. 270.1(c), and (c)(7); see 63 Fed. Reg. at 56715.) The Board refers the interested reader to the *Federal Register* notices cited above for more information on the federal rule.

The Board believes that the October 22, 1998, federal “alternative mechanisms” action is significant. This action removes any possible conflict between the RCRA Subtitle C hazardous waste rules and such State initiatives as the “Brownfield” rules (35 Ill. Adm. Code 740) and the “tiered approach to corrective action” or “TACO” rules (35 Ill. Adm. Code 742). Formerly, closure and post-closure care was allowed at a RCRA facility only under a

RCRA permit and only under RCRA standards. The State will now be able to use alternative mechanisms to allow closure and post-closure care requirements that are more suitably tailored than the generally-applicable hazardous waste rules.

The Board incorporated the federal amendments (to 40 C.F.R. 264.90, 264.110, 264.112, 264.118, 264.140, 265.90, 265.110, 265.112, 265.118, 265.121, 265.140, 270.1(c), 270.1(c)(7), 270.14(a), and 270.28) into the corresponding Illinois provisions (35 Ill. Adm. Code 724.190, 724.210, 724.212, 724.218, 724.240, 725.190, 725.210, 725.212, 725.218, 725.221, 725.240, 703.121, 703.161, 703.182, and 703.214, respectively) with a minor amount of deviation from the federal text. The tables beginning at page 16 indicate the revisions made in the verbatim wording of the federal amendments. However, the Board does take note in this segment of the discussion of some of the deviations from the federal text.

Differences between the federal and Illinois regulatory systems have prompted the Board to make several additional categories of alterations to the federal language of the amendments. The first is a series of conforming substitutions in basic nomenclature. USEPA defines the “alternative requirements” as being embodied in an “enforceable document,” which is some legally binding document other than a RCRA permit. (40 C.F.R. 270.1(c), and (c)(7).) The Board can foresee several methods by which an “enforceable document” might arise. Under Illinois law, a facility must operate within the terms of a permit granted by the Agency. (415 ILCS 5/21(f) (1998).) However, where that permit would involve a deviation from Board regulations, an “enforceable document” could be an order of the Board. In place of the federal “enforceable document” language, the Board has substituted references directly to “alternative requirements.”

In addition to accommodating the differences between the federal and Illinois regulatory systems, the Board believes that the use of “alternative requirements” in place of “enforceable document” clarifies the rules by allowing them to be read more directly, since the primary focus is on the requirements and not on the document. This helps ensure the necessary flexibility in the document or combination of documents that embody the alternative requirements.

Further, the use of “alternative requirements” standardizes the usage of three different terms in the federal rules. In addition to the phrase “enforceable document,” USEPA also uses the phrase “alternative requirements” (see, e.g., 40 C.F.R. 264.110(c) and (c)(2), 264.112(c)(2)(iv), 264.118(d)(2)(iv), 264.140(d) and (d)(2)), and “alternative authorities” (see, e.g., 40 C.F.R. 270.28). Treating these three terms as synonymous, the Board uses “alternative requirements” when referring to each of them.

The second major substitution in the text is the use of dual references to both the Board and the Agency. As discussed above, the alternative requirements could arise from the Board or from the Agency, depending on the nature of those requirements and the means through which the owner or operator seeks them. The owner or operator could obtain a Board order granting facility-specific relief from the generally-applicable hazardous waste regulations. This could be by means of a site-specific rule (under Sections 22.4(b) and 27 of the Act), an

adjusted standard (under Section 28.1 of the Act), or a variance (under Section 35 of the Act). It is also possible for the Agency to allow alternative requirements without a Board order, as under the State's "Brownfields" regulations (35 Ill. Adm. Code 740) or under the TACO rules (35 Ill. Adm. Code 742). For example, Section 725.221(b)(1) (corresponding with 40 C.F.R. 265.121(b)(1)) is divided and separately outlines the requirements for public notice by the Board and by the Agency. Finally, the alternative requirements could pertain to a variety of aspects of facility closure and post-closure care. (See 35 Ill. Adm. Code 724.210(c) and 725.210(d).)

Accordingly, the Board has provided for alternative requirements granted by the Agency or by the Board in each provision encountered, except one. The one provision for which no Agency action is conceivable under 35 Ill. Adm. Code 740 or 742 concerns alternative financial assurance requirements (under 35 Ill. Adm. Code 724.240 or 725.240). Thus, the rule provides only for the Board to grant alternative financial assurance requirements.

Another significant deviation in language is that the Board has added cross-references to a central provision to further ensure consistent reading of the rules. It appears that USEPA intended 40 C.F.R. 270.1(c)(7) as a central defining provision. It authorizes the use of alternative requirements and broadly defines them. Some, but not all, substantive segments of the rules that authorize the use of alternative requirements refer back to this section. The Board has added references to corresponding 35 Ill. Adm. Code 703.161 to those segments of the text that authorize alternative requirements where the federal rules did not use them. Thus, Sections 724.190(f), 724.210(c), 724.212(b)(8) and (c)(2)(D), 724.218(b)(4), 724.240(d), 725.190(f), 725.210(d), 725.212(b)(8), 725.218(c)(5), and 724.240(d), now refer to "alternative requirements, as provided in 35 Ill. Adm. Code 703.161."

The Board made one more significant change in language for the purpose of adding clarity to the rules with no intent of changing the scope of meaning intended by USEPA. USEPA requires any alternative requirements "protect human health." For example, under 40 C.F.R. 264.90(f) and 725.90(f), alternative groundwater monitoring requirements must "protect human health." To avoid either too liberal or too strict a reading, the Board has added the word "adequately" to the phrase. As a result, corresponding Sections 724.190(f) and 725.190(f) provide that the alternative requirements must "adequately protect human health and the environment." While we do not believe that USEPA intended to require near-absolute protection of human health, neither do we believe that it intended to provide only minimal protection. By adding the word "adequately," we will avoid extreme readings of these passages.

A final significant alteration in language is that the Board has consistently changed references to "post-closure permits" to read "post-closure care permits." The reason for this is that the permits pertain to post-closure care of the facility. The post-closure care period begins when facility closure is complete, and such care is the sole activity at a closed facility. Parallel references to both "post-closure" and "post-closure care" refer to the same thing, so the Board conformed each appearance throughout the text by rendering it "post-closure care."

The Board requests public comment on the amendments relating to alternative closure and post-closure care requirements. We request specific attention to the issues outlined in the foregoing discussion.

Hazardous Remediation Waste Management Rules—Sections 702.110, 702.126, 703.157, 703.234, 703.300-703.306, 703.Appendix A, 720.110, 721.104, 724.101, 724.173, 724.201, 724.652-724.654, 725.101, 728.102, and 728.150

USEPA adopted a set of amendments to further its regulatory reform initiative on November 30, 1998 (63 Fed Reg. 65874). The amendments related to the management of hazardous remediation waste (HWIR-media rules) and made five changes in the hazardous waste rules. First, the amendments were intended to make permits easier to obtain for managing remediation waste. The facility owner or operator may seek approval of a limited “remedial action plan” or “RAP” for its activities. Second, the amendments prevent a facility obtaining a RAP from becoming subjected to a requirement from a facility-wide RCRA permit requirements. Third, they create a unit called a “staging pile” that allows greater flexibility in managing the remediation waste. Fourth, under the amendments, the management of dredged materials under a permit under the Clean Water Act (or the Marine Protection, Research, and Sanctuaries Act, which does not apply in Illinois) is excluded from RCRA Subtitle C regulation. Finally, the amendments expedite the procedure for federal approval of amended state RCRA Subtitle C programs. The Board directs the reader’s attention to the November 30, 1998 *Federal Register* notice for further details on the USEPA’s HWIR-media rules.

The Board has attempted to incorporate the substance of the federal HWIR-media amendments into the Illinois regulations with a minimum of deviation from the federal text. The tables beginning at page 16 indicate the revisions made in the verbatim wording of the federal amendments. The federal rules presented six significant problems, however, that forced the Board to deviate in several ways.

First, the federal rules are drafted in a “user-friendly” format that the Board believes is too colloquial for regulations. For example, the federal rules are presented in a question-and-answer format. They rely heavily on the use of personal pronouns, most significantly “you,” “your,” “I,” and “my.” Further, new 40 C.F.R. 270, Subpart H codified as 35 Ill. Adm. Code 703.Subpart H, includes subheadings that appear topically important to the organization of the rules, but which are not allowed under the *Illinois Administrative Code* codification requirements. (See 1 Ill. Adm. Code 5/100.310.) The Board converted each of the personal pronouns into “the owner or operator” or the impersonal pronouns “it” or “its.” The Board used the topical subheadings under 40 C.F.R. 270, Subpart H as Section headings, making each short federal section a subsection in the Illinois rules. This allowed us to avoid many potential problems with a question-and-answer format because the questions have become subsection headings.

Second, a few of the time limits set forth in the federal text conflict with limits that already exist in the Illinois regulatory scheme. For example 40 C.F.R. 270.215(c) and (d) (codified as 35 Ill. Adm. Code 703.305(b)(3) and (b)(4)) provide that a RAP is effective 30 days after the Agency notice of approval. The Board has used 35 days to be consistent with the 35 days within which a permit appeal must be

filed under Section 40(a)(1) of the Act. This includes substituting 35 days for 30 days in Section 703.303(g) for the time when a RAP becomes effective. Further, 40 C.F.R. 270.215(d) provides three days for completion of service by mail. Had the Board used four days in corresponding Section 703.305(b)(4) to be consistent with procedural rule 35 Ill. Adm. Code 101.144(c), the resulting 39 days would have exceeded the 35 days allowed under Section 40(a)(1) of the Act (415 ILCS 5/40(a)(1) (1998)). Finally, 40 C.F.R. 270.190(c)(2) and (c)(3) allow 60 days for review of RAP decisions. This is too short a time for the Board to publish the appropriate notices, conduct public hearings, and conduct its review. Rather, in corresponding 35 Ill. Adm. Code 703.304(d)(3)(B) and (d)(3)(C), the Board has borrowed the 120 days allowed as adequate time for Board review of permit appeals provided in Section 40(a)(2) of the Act.

**Third**, 40 C.F.R. 270.90 includes an explanation that 40 C.F.R. 270.4 provides that compliance with a permit constitutes compliance with RCRA. This is contrary to Illinois law, under which compliance with a permit does not constitute an absolute defense to a charge of violation of a substantive standard other than a failure to operate in accordance with the terms of a permit. The Board omitted this language from the text and added an explanatory Board Note.

**Fourth**, 40 C.F.R. 270.190(b) through (d) provide a procedure for informal appeal of a RAP determination. The Board has not retained the word “informal” in the description of the procedure in corresponding 35 Ill. Adm. Code 703.304(e)(2) through (e)(4), since there is no such procedure for an informal appeal under the Act. Under Section 39 of the Act, the Agency makes its decisions on permit applications. The Board formally hears appeals of those decisions pursuant to Section 40 of the Act. For the purposes of public comment, the Board has rendered Section 703.304(e)(2) through (e)(4) to use the formal procedure provided under the Act. It may be possible to use this provision to provide for Agency reconsideration of its RAP determinations. If the Board adopts the option of a formal appeal in the final version of this rule, the appeal referred to in Section 703.304(e)(4) would be an appeal to the Board pursuant to Section 40 of the Act. If this is redrafted to provide for Agency reconsideration of its RAP determinations, the Board would restore the 60-day timeframe provided in the federal rule for the Agency to render its decision. On the other hand, if the Board renders this provision as providing for appeal to the Board, we would remove the word “informal” and retain the 120-day timeframe for decision that we have already borrowed from Section 40 of the Act.

**Fifth**, under the federal rules, USEPA has provided for approval of a RAP, denial of a RAP, or partial denial of an RAP. (See 40 C.F.R. 270.130(b).) Under Section 39 of the Act, the Agency has the power to grant or deny a permit, as well as the power to grant a permit with conditions. (415 ILCS 5/39 (1998)). The Board has also accordingly added a provision for approving a RAP with conditions. (See 35 Ill. Adm. Code 703.303(a)(2)).

**Sixth**, the federal rules, in 40 C.F.R. 270.115, set forth the federal procedure for an owner or operator to seek protection of confidential business information when applying for an RAP. The process is different from that already provided for in Illinois under 35 Ill. Adm. Code 120. Thus, in corresponding 35 Ill. Adm. Code 703.302(e), the Board has maintained the Illinois procedure. Under the Illinois procedure, it is a “trade secret,” rather than “confidential business information,” that is protected from disclosure. Thus, in addition to changing the regulatory cross-reference to cite Illinois regulations, the Board revised the explanation of the document marking requirements to refer to marking “trade secret” in red ink. What is and is not protected from disclosure under Illinois law is immaterial from the federal perspective, so long as information for which federal law mandates public disclosure is not protected from disclosure under Illinois law. (See 40 C.F.R. 2.301-2.311.)

Other minor deviations from the federal text are a shift in usage. In 40 C.F.R. 270.80(f), USEPA refers to a cleanup compelled by “Federal or State cleanup authorities.” The Board chose the words “authorities issued by USEPA or the State of Illinois” to clarify this term. In another clarifying deviation, the Board has consistently used “RCRA permit” where USEPA refers to “permit” in the text. The Board prefers this more consistent usage to reduce the potential for confusion.

As with the October 22, 1998 amendments pertaining to alternative closure and post-closure care requirements, the November 30, 1998 HWIR-media rules include a number of references to “protect human health and the environment.” The Board has rendered this as “adequately protect human health and the environment” for the same reasons as we did the closure and post-closure care rules.

Finally, the Board incorporated one federal definition by reference, rather than follow our typical practice of restating such material in our rules. In the 40 C.F.R. 261.4(g) exclusion of dredged material from the definition of “hazardous waste,” USEPA incorporates the definition of “dredged material” from its Clean Water Act regulations at 40 C.F.R. 232.2. In corresponding 35 Ill. Adm. Code 721.104(g), the Board has retained the citation to 40 C.F.R. 232.2 for definition of the term. The Board will, of course, continue to follow our practice of annually updating all federal regulations incorporated by reference, including this one. The exclusion of dredged materials applies only to those materials defined under 40 C.F.R. 232.2 and regulated under the body of regulations in which that definition appears. Thus, persons who would be in a position to take advantage of the exclusion are already familiar with those other rules.

The Board requests public comment on the HWIR-media amendments. We request specific attention to the issues outlined in the foregoing discussion.

#### Universal Waste Rule Corrections—Sections 726.180, and 733.106

USEPA adopted a set of corrections to its universal waste rule on December 24, 1998 (63 Fed. Reg. 71225). Three corrections relate to reclaimed spent lead-acid batteries. Another corrects the definition of “small quantity universal waste handler.” Finally, a correction clarifies the applicability of the export requirements to destination universal waste handlers. The Board defers to the December 24, 1998 *Federal Register* notice for a detailed discussion of the federal action.

The Board incorporated the federal amendments with minor deviation from the federal text. The tables beginning at page 16 indicate the revisions made in the verbatim wording of the federal amendments. The Board encountered two minor challenges in incorporating the federal requirements into the Illinois Regulations. First, as in the November 30, 1998 HWIR-media rule, USEPA used a more colloquial format for a segment of the amended rule. In such situations, the Board changed “you aren’t” to read “the owner or operator is not.”

Second, although we generally codify tables separately at the end of the Part, the Board incorporated the table from 40 C.F.R. 266.80(a) into corresponding 35 Ill. Adm. Code 266.180(a). We believe that the table successfully presents the requirements and outlines their applicability very clearly and succinctly. Rendering them in a standard format would not improve them. We further believe that this is the best location for them since it is Section 726.180 that outlines applicability.

The Board requests public comment on the universal waste rule corrections. We request specific attention to the issues outlined in the foregoing discussion.

#### Petroleum Waste-Derived Landfill Wastes—Section 721.104

USEPA adopted a temporary deferral of regulation as hazardous waste for certain petroleum refining-derived wastes on February 11, 1999 (64 Fed. Reg. 6806). USEPA

amended its definition of hazardous waste to exempt, until February 13, 2001, certain leachate or gas condensate collected from landfills where solid wastes have been disposed from petroleum refining (now listed as USEPA hazardous waste numbers K169 through K172). See the February 11, 1999 *Federal Register* notice for explanation of the federal action.

As is explained above at page 4 of this opinion, the Board is granting expedited consideration of the February 11, 1999 federal amendments in this docket, rather than waiting until the next update docket. The February 11, 1999 amendments relate to hazardous waste listings that were recently adopted in the prior RCRA Subtitle C update docket R98-21/R99-2/R99-7, and for which there will be no exclusion in Illinois until the Board acts to adopt the federal deferral of regulation. Until the Board adopts the deferral, these wastes will remain subject to hazardous waste regulation under the Illinois hazardous waste rules. This will impose an undesirable and disproportionate regulatory burden on entities in Illinois. Additionally, since Section 721.104 is already involved in this proceeding, it is appropriate for the Board to address the deferral at this time.

The Board incorporated the federal amendments into the corresponding Illinois rules with only minor deviations from the federal text. The tables beginning at page 16 indicate the revisions made in the verbatim wording of the federal amendments.

The Board requests public comment on the petroleum waste-derived landfill waste exclusion amendments.

#### Discussion of Miscellaneous Other Amendments not Federally Driven

The tables beginning on the next page of this opinion list numerous corrections and amendments that are not based on current federal amendments. The first table includes deviations made in this Proposal for Public Comment from the verbatim text of the federal amendments. The second table contains corrections and clarifications that the Board made in the base text involved this proposal. The amendments listed in this second table are not directly derived from the current federal amendments. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning at page 6 of this opinion.

#### Deviations from the Text of the Federal Amendments

Illinois Section	40 C.F.R. Section	Revision(s)
702.110 "remedial action plan"	270.2 "remedial action plan"	Placed defined term in quotes; added "or;" used quotes in place of parentheses for abbreviation "RAP;" added "pursuant to 35 Ill. Adm. Code 703.Subpart H;" added comma before "instead" to offset parenthetical; added "RCRA;" added comma before conjunction to offset the final element of a series
702.126(d)(2)	270.11(d)(2)	Added "alternative owner certification;" changed personal pronoun "who" to "that"

703.121(b)	270.1(c)	Substituted “alternative requirements” for “enforceable documents”
703.161	270.1(c)(7)	Deleted “at the discretion of the [Agency];” removed parenthetical “in lieu of a post-closure permit;” substituted “alternative requirements” for “enforceable document” (twice); substituted “that comply with” for “imposing;” used “an order of the Board . . . 35 Ill. Adm. Code 740 or 742” in place of “an order, a plan, or other document . . .”
703.182 preamble	270.14(a)	Changed “post-closure permit” to “post-closure care permit”
703.161	270.28	Shortened Section heading; changed “post-closure permit” to “post-closure care permit” (twice); added comma before conjunction to offset the final element of a series; changed “an alternative authority is used in lieu of a post-closure permit” to “it seeks alternative requirements;” added comma before “as provided” to offset parenthetical
703.300	270.79	Changed Section heading to a declarative statement; changed “this subpart is written” to “USEPA wrote the federal counterpart to this Subpart, 40 CFR 270, Subpart H;” added sentence about Board adaptation of Subpart H; added “all;” added “Subpart”
703.301 Section heading	Subpart subheading	Used subpart subheading as the Section heading
703.301(a)	270.80	Rendered entire federal section as subsection, renumbering subsections accordingly
703.301(a)(1)	270.80(a)	Changed “you, as an owner or operator, may” to “an owner or operator may;” changed “you” to “the owner or operator”
703.301(a)(3)	270.80(c)	Added cross-reference to definitions section
703.301(a)(4)	270.80(d)	Added “either of the following”
703.301(a)(4)(B)	270.80(d)(2)	Added indefinite article “a;” used “or” in place of “and/or”
703.301(a)(5)	270.80(e)	Changed “you are” to “an owner or operator is;” changed “Federal or State cleanup authorities” to “authorities issued by USEPA or the State of Illinois;” changed “your RAP” to “a RAP;” changed “your obligations” to “the obligations”
703.301(a)(6)	270.80(f)	Changed “you receive” to “an owner or operator receives;” changed “your interim status” to “the facility’s interim status”



703.301(b)	270.85	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “do I” to “does an owner or operator”
703.301(b)(1)	270.85(a)	Changed “you treat, store, or dispose” to “an owner or operator treats, stores, or disposes;” changed “you must” to “an owner or operator shall”
703.301(b)(3)	270.85(c)	Changed “you” to “an owner or operator;” changed “you must” to “an owner or operator shall” (twice); changed “these RAPs” to “the RAP;” changed “your” to “the owner’s or operator’s;” changed “you submit” to “an owner or operator submits;” changed “your permit” to “the owner’s or operator’s RCRA permit” (twice); added comma to offset prepositional phrase “when . . . modified;” added comma to offset “therefore;” added comma to offset final element of a series; used “the permit” in place of “it”
703.301(c)	270.90	Rendered entire federal section as subsection; changed “my” to “a;” changed “me” to “an owner or operator;” changed “me” to “it;” replaced note language about compliance with a permit constituting compliance with RCRA with a note explaining the contrary is true under Illinois law
703.302 Section heading	Subpart subheading	Used subpart subheading as the Section heading
703.302(a)	270.95	Rendered entire federal section as subsection; changed section heading to a declarative statement and used it as a subsection heading; changed “you must” to “an owner or operator shall”
703.302(b)	270.100	Rendered entire federal section as subsection; added a comma to offset final element of a series
703.302(c)	270.105	Rendered entire federal section as subsection; changed “must” to “shall” (twice)
703.302(d)	270.110	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “I” to “an owner or operator;” changed “my” to “its” (twice); changed “you must” to “an owner or operator shall”
703.302(d)(1)	270.110(a)	Changed “EPA” to “USEPA”
703.302(d)(5)	270.110(e)	Added “the following”

703.302(d)(5)(C)	270.110(e)(3)	Added a comma to offset the final element of a series
703.302(d)(6)	270.110(f)	Added “the following;” added a comma to offset the final element of a series
703.302(d)(6)(A)	270.110(f)(1)	Used “or” in place of “and/or”
703.302(d)(6)(C)	270.110(f)(3)	Changed “you” to “an owner or operator”
703.302(d)(7)	270.110(g)	Changed “your” to “an owner’s or operator’s”
703.302(d)(8)	270.110(h)	Used lower case “federal”
703.302(d)(9)	270.110(i)	Added “adequately”
703.302(e)	270.115	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “you want” to “an owner or operator wants;” substituted citation to Illinois trade secrets protection rules (twice); changed “you” to “an owner or operator” (twice); changed “you submit” to “an owner or operator submits” (four times); changed “you must” to “an owner or operator shall;” changed “your” to “its;” changed “confidential business information” to “trade secret;” changed “on each . . . information” to “in red ink as provided in 35 Ill. Adm. Code 120.305;” changed “you do assert” to “an owner or operator asserts;” added “in compliance with 35 Ill. Adm. Code 120.201;” used “Agency shall” in place of “EPA will;” changed “you do” to “an owner or operator does;” used “Agency shall” in place of “EPA may;” changed “you” to “the owner or operator;” used “or” in place of “and/or”
703.302(f)	270.120	Rendered entire federal section as subsection; changed “I” to “an owner or operator;” changed “my” to “its;” changed “you must” to “an owner or operator shall;” changed “your” to “its”
703.302(g)	270.125	Rendered entire federal section as subsection; changed “you submit” to “an owner or operator submits” (twice); changed “your” to “its” (three times); changed “you must” to “an owner or operator shall”
703.303 Section heading	Subpart subheading	Used subpart subheading as the Section heading

703.303(a)	270.130	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “my” to “an”
703.303(a)(1)	270.130(a)	Changed “your” to “an owner’s or operator’s;” changed “your” to “the” (three times); changed “Director will” to “Agency shall” (twice)
703.303(a)(2)	270.130(b)	Changed “your” to “an owner’s or operator’s” (three times); changed “your” to “the” (three times); changed “you” to “an owner or operator” (twice); changed “you fail or refuse” to “an owner or operator fails or refuses;” changed “your” to “its;” added “either;” added “or to approve that application with certain changes” (twice); added parenthetical “as allowed under Section 39 of the Act [415 ILCS 5/39]” offset by comma; changed “Director will” to “Agency shall”
703.303(b)	270.135	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “it” to “the draft;” added “the following information”
703.303(b)(1)	270.135(a)	Added definite article “the”
703.303(b)(2)(A)	270.135(b)(1)	Changed “your” to “the;” added comma before “as required” to offset parenthetical
703.303(b)(2)(B)	270.135(b)(2)	Added definite article “the”
703.303(b)(2)(C)	270.135(b)(3)	Added definite article “the;” changed “your” to “the”
703.303(c)	270.140	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “he must” to “it shall;” added “do the following”
703.303(c)(2)	270.140(b)	Added “the following information”
703.303(c)(2)(C)	270.140(b)(2)	Changed “issuing Regional office” to “applicable Agency office”
703.303(d)	270.145	Rendered entire federal section as subsection, renumbering subsections accordingly
703.303(d)(1)	270.145(a)	Changed “must” to “shall;” added “publish notice of its intent as follows”
703.303(d)(1)(A)	270.145(a)(1)	Changed “you” to “an owner or operator” (twice); changed “his” to “its;” changed “your” to “an owner’s or operator’s”
703.303(d)(1)(B)	270.145(a)(2)	Changed “his” to “its;” changed “your” to “an owner’s or operator’s”

703.303(d)(1)(C)	270.145(a)(3)	Changed “his” to “its;” changed “your” to “an owner’s or operator’s”
703.303(d)(1)(D)	270.145(a)(4)	Changed “his” to “its;” changed “your” to “an owner’s or operator’s” (twice)
703.303(d)(3)	270.145(c)	Added “the following information”
703.303(d)(3)(A)	270.145(c)(1)	Added “Agency”
703.303(d)(3)(I)	270.145(c)(9)	Added “that”
703.303(d)(4)	270.145(d)	Changed “his” to “its;” changed “your” to “the owner’s or operator’s” (twice); changed “must” to “shall” (twice); changed “his” to “its;” added the following additional information”
703.303(d)(4)(A)	270.145(d)(1)	Added indefinite article “a”
703.303(e)	270.150	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “will” to “must;” changed “my” to “an”
703.303(e)(1)	270.150(a)	Changed “must” to “shall;” deleted unnecessary comma after “period;” added “the Agency may;” changed “your” to “the”
703.303(e)(2)	270.150(b)	Changed “your” to “the owner’s or operator’s” (three times); changed “you” to “the owner or operator;” changed “your” to “the”
703.303(e)(3)	270.150(c)	Changed “your” to “the owner’s or operator’s” (twice); changed “he” to “it;” changed “your” to “the;” changed “you” to “the owner or operator;” changed “your” to “the”
703.303(e)(4)	270.150(d)	Changed “he will” to “it shall”
703.303(e)(5)	270.150(e)	Changed “your” to “its;” changed “he will” to “it shall”
703.303(e)(6)	270.150(f)	Changed “must” to “shall;” changed “issuing Regional office” to “applicable Agency office;” changed “which” to “that;” added comma to offset parenthetical, “as long as . . .;” added “the following items”
703.303(e)(7)	270.150(g)	Changed “must” to “shall”
703.303(f)	270.155	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “my” to “an”

703.303(f)(1)	270.155(a)	Used singular “hearing;” changed “your” to “the owner’s or operator’s;” changed “who” to “that;” changed “the Director will” to “the Agency shall;” used singular “RAP;” added “the following information”
703.303(f)(1)(A)	270.155(a)(1)	Changed “the briefing schedule” to “the public hearing and any briefing schedule”
703.303(f)(1)(B)	270.155(a)(2)	Changed “file an amicus brief” to “participate in the public hearing or file public comments or an amicus brief”
703.303(g)	270.160	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “my” to “an;” changed “your” to “an;” changed “30 days” to “35 days;” changed “you” to “the owner or operator;” changed “your” to “the;” added “any of the following is true;” added ending explanatory Board Note
703.303(g)(1)	270.160(a)	Changed “his” to “its”
703.303(g)(2)	270.160(b)	Changed “you” to “an owner or operator;” changed “your” to “the” (three times)
703.303(h)	270.165	Rendered entire federal section as subsection; changed “you” to “an owner or operator” (twice); changed “must” to “shall”
703.304 Section heading	Subpart subheading	Used subpart subheading as the Section heading; changed question into a declarative statement; changed “my” to “an”
703.304(a)	270.170	Rendered entire federal section as subsection; changed “my” to “an;” changed “your” to “an;” changed “must” to “shall;” changed “your” to “the” (twice); changed “your” to “an owner’s or operator’s;” changed “your” to “its”
703.304(b)	270.175	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “my” to “a”
703.304(b)(1)	270.175(a)	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “your” to “the owner’s or operator’s;” changed “your” to “its;” changed “will” to “shall;” changed “my” to “a;” changed “your request” to “the request of the owner or operator;” added “the following”

703.304(b)(1)(A)	270.175(a)(1)	Changed “you” to “the owner or operator”
703.304(b)(1)(C)	270.175(a)(3)	Added a comma to offset the last element of a series; deleted a comma separating the elements of a two-element series
703.304(b)(1)(D)	270.175(a)(4)	Changed “your” to “the;” changed “your” to “the owner’s or operator’s;” added comma after “shortage” to offset parenthetical; changed “you, as the owner/operator have” to “an owner or operator has”
703.304(b)(1)(E)	270.175(a)(5)	Changed “you are” to “the owner or operator is;” changed “your” to “its”
703.304(b)(1)(F)	270.175(a)(6)	Changed “you” to “the owner or operator” (twice)
703.304(b)(1)(G)	270.175(a)(7)	Changed “your” to “the owner’s or operator’s;” added “the RAP”
703.304(b)(1)(H)	270.175(a)(8)	Changed “you have” to “the owner or operator has;” added “and;” changed “your” to “an”
703.304(b)(2)	270.175(b)	Changed “he” to “it”
703.304(b)(3)	270.175(c)	Changed “will” to “shall”
703.304(c)	270.180	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “my” to “a”
703.304(c)(1)	270.180(a)	Changed “your” to “a” (twice); changed “his” to “its;” changed “will” to “ shall;” changed “your” to “the owner’s or operator’s”
703.304(c)(2)	270.180(b)	Changed “will” to “ shall”
703.304(d)	270.185	Rendered entire federal section as subsection; changed “my” to “a” (twice); changed “your” to “a” (twice); changed “his” to “its;” changed “your” to “the” (twice)
703.304(e)	270.190	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “my” to “a”
703.304(e)(1)	270.190(a)	Added a comma to offset final element of a series (twice); removed comma from a two-element series; changed “who” to “that” (twice); used singular “hearing” (twice); changed “your” to “a;” removed unnecessary comma separating sentence subject and verb

703.304(e)(2)	270.190(b)	Added a comma to offset final element of a series; removed comma from a two-element series; changed “who” to “that” (twice); used singular “hearing” (twice); changed “informally appeal” to “appeal”
703.304(e)(3)	270.190(c)	Changed “process” to “procedure;” changed “informal appeal” to “appeal”
703.304(e)(3)(A)	270.190(c)(1)	Changed “must” to “shall;” changed “letter” to “petition” (twice); added reference to “35 Ill. Adm. Code 101 and 105;” added “state the defect . . . pursue the appeal”
703.304(e)(3)(B)	270.190(c)(2)	Changed “60 days” to “120 days;” changed “letter” to “petition”
703.304(e)(3)(C)	270.190(c)(3)	Changed “60 days” to “120 days”
703.304(e)(4)	270.190(d)	Changed “informal appeal” to “appeal”
703.304(f)	270.195	Rendered entire federal section as subsection; changed “my” to “a;” changed “will” to “shall” (twice); changed “you” to “the owner or operator;” changed “your” to “the;” changed “you continue” to “the owner or operator continues;” added “the Act and”
703.304(g)	270.200	Rendered entire federal section as subsection; changed “I” to “an owner or operator;” changed “my” to “a;” changed “if it” to “that;” changed “you wish” to “an owner or operator wishes;” changed “your” to “a;” changed “you must” to “an owner or operator “shall”
703.304(h)	270.205	Rendered entire federal section as subsection; changed “have” to “has;” changed “my” to “its;” changed “you have” to “an owner or operator has;” changed “your” to “an owner’s or operator’s;” changed “your” to “the”
703.305 Section heading	Subpart subheading	Used subpart subheading as the Section heading; changed “your” to “a”
703.305(a)	270.210	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “I” to “an owner or operator;” changed “my” to “its;” changed “you are” to “an owner or operator is;” added “the following”

703.305(a)(1)	270.210(a)	Changed “you submit” to “an owner or operator submits;” used “three” in place of “3”
703.305(a)(2)	270.210(b)	Changed “and/or” to “or;” changed “you” to “an owner or operator;” changed “your” to “the”
703.305(b)	270.215	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “my” to “the”
703.305(b)(1)	270.215(a)	Changed “your” to “a;” changed “you must” to “the owner or operator shall;” changed “your” to “the;” changed “you” to “the owner or operator”
703.305(b)(2)	270.215(b)	Changed “you are” to “the owner or operator is;” changed “your” to “its” (twice); changed “you wish” to “the owner or operator wishes;” changed “must” to “shall” (twice); changed “you plan” to “an owner or operator plans;” changed “owner/operator” to “owner or operator”
703.305(b)(3)	270.215(c)	Changed “you wish” to “an owner or operator wishes;” changed “your” to “its” (three times); changed “you must” to “an owner or operator shall;” changed “30 days” to “35 days;” changed “30th day” to “35th day” (twice); changed “you” to “the owner or operator” (twice)
703.305(b)(4)	270.215(d)	Changed “3 days” to “four days;” changed “you wish” to “an owner or operator wishes;” changed “your” to “its” (twice); changed “you must” to “an owner or operator shall;” changed “30 days” to “35 days;” changed “you” to “the owner or operator” (twice); deleted sentence extending time for appeal if the notice was sent by mail
703.305(c)	270.220	Rendered entire federal section as subsection, renumbering subsections accordingly; changed “I” to “an owner or operator;” changed “my” to “its”



703.305(c)(1)	270.220(a)	Changed “you wish” to “an owner or operator wishes;” changed “your” to “its” (twice); changed “you must” to “an owner or operator shall;” changed “owner/operator must” to “owner or operator shall;” changed “you” to “the owner or operator”
703.305(c)(2)	270.220(b)	Changed “you, as the old owner or operator must” to “the old owner or operator shall;” changed “must” to “shall” (three times); changed “owner/operator” to “owner or operator;” changed “tell you that you no longer need” to “tell the owner or operator that it no longer needs”
703.305(d)	270.225	Rendered entire federal section as subsection; changed “must” to “shall;” added parenthetical “incorporated by reference . . .”
703.306	270.230	Changed “I” to “an owner or operator”
703.306(a)	270.230(a)	Changed “you” to “an owner or operator” (twice)
703.306(b)	270.230(b)	Changed “must” to “shall”
703.306(c)	270.230(c)	Changed “you must” to “an owner or operator shall;” changed “the Director will” to “the Agency shall”
703.306(d)(4)	270.230(d)(4)	Changed “which” to “that;” changed “you must” to “an owner or operator shall;” added definite article “the”
703.306(d)(4) Board Note	270.230(d)(4) Note	Changed “sites located in political jurisdictions other than those listed in Appendix VI of Part 264 of this chapter” to “sites in Illinois;” changed “this” to “the;” added “of subsection (d)(4) . . . Appendix VI”
720.110 “corrective action management unit”	260.10 “corrective action management unit” ¶ (3)	Changed “notwithstanding paragraph (2)” to “notwithstanding the immediately preceding paragraph;” added “a facility that”
720.110 “miscellaneous unit”	260.10 “miscellaneous unit”	Changed a comma to a semicolon to offset the final element of a series
720.110 “remediation waste management site”	260.10 “Remediation waste management site”	Added quotation marks to defined term; added a comma to offset the final element of a series; added “a remediation waste management site”
720.110 “staging pile”	260.10 “staging pile”	Added quotation marks to defined term

721.104(b)(15)	260.4(b)(15)	Added “the following conditions are fulfilled”
721.104(b)(15)(A)	260.4(b)(15)(i)	Corrected the effective date of the hazardous waste listing to “January 19, 1999”
721.104(b)(15)(C)	260.4(b)(15)(iii)	Added ending conjunction “and”
721.104(b)(15)(D)	260.4(b)(15)(iv)	Added “federal”
721.104(g)	260.4(g)	Deleted citation to the Marine Protection, Research, and Sanctuaries Act; added “the purposes of”
721.104(g) “dredged material”	260.4(g)(1)	Added quotation marks to the defined term; added parenthetical “as incorporated by reference . . .”
721.104(g) “permit”	260.4(g)(2)	Added quotation marks to the defined term; changed “Corps” to “Army Corps” (four times); deleted “or an approved State;” changed “U.S.C.” to “USC” (twice); changed “paragraphs (g)(2)(i) and (ii)” to “the preceding two paragraphs”
724.101(j)	264.1(j)	Added a comma to offset final element of a series; changed “must” to “shall;” added “comply with the following requirements”
724.101(j)(1)	264.1(j)(1)	Added “the owner or operator shall;” changed “Administrator” to “USEPA;” changed “EPA” to “USEPA”
724.101(j)(2)	264.1(j)(2)	Added “the owner or operator shall;” changed “must be kept” to “the owner or operator shall keep the analysis”
724.101(j)(3)	264.1(j)(3)	Added “the owner or operator shall;” added “the site;” added “the owner or operator shall;” added “the following;” deleted “that”
724.101(j)(4)	264.1(j)(4)	Added “the owner or operator shall” (twice); deleted unnecessary commas before and after “or may lead to;” deleted unnecessary comma before “or a threat to human health;” changed “must” to “shall” (twice); changed “owner/operator” to “owner or operator;” moved adverb “immediately” before verb “take”
724.101(j)(5)	264.1(j)(5)	Added “the owner or operator shall”
724.101(j)(6)	264.1(j)(6)	Added “the owner or operator shall” (twice); added a comma to offset final element of a series
724.101(j)(7)	264.1(j)(7)	Changed “owner/operator” to “owner or operator” (twice); changed “must” to “shall”
724.101(j)(8)	264.1(j)(8)	Added “the owner or operator shall;” added a comma to offset final element of a series
724.101(j)(9)	264.1(j)(9)	Added “the owner or operator shall;” added a comma to offset final element of a series

724.101(j)(10)	264.1(j)(10)	Added “the owner or operator shall;” added a comma to offset final element of a series
724.101(j)(11)	264.1(j)(11)	Added “the owner or operator shall”
724.101(j)(12)	264.1(j)(12)	Added “the owner or operator shall;” added a comma to offset final element of a series
724.101(j)(13)	264.1(j)(13)	Added “the owner or operator shall”
724.190(e)	264.90(e)	Changed “post-closure” to “post-closure care;” deleted “or an enforceable document;” added “that contains alternative requirements for the facility;” deleted sentence “when the Agency . . . enforceable document;” added sentence “No alternative requirements . . . facility permit;” added explanatory Board note
724.190(f)	264.90(f)	Changed “the Regional Administrator may” to “Board will or the Agency shall . . . a regulated unit that;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “Regional Administrator” to “Board or Agency;” added “the following”
724.190(f)(1)	264.90(f)(1)	Used plural “units”
724.190(f)(2)	264.90(f)(2)	Added “adequately”
724.201(d)	264.101(d)	Changed “this does” to “the requirements of this Section do;” added a comma to offset final element of a series
724.210(c)	264.110(c)	Changed “the Regional Administrator may” to “Board will or the Agency shall . . . a regulated unit that;” added “closure and post-closure care;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “Regional Administrator” to “Board or Agency;” added “the following”
724.210(c)(1)	264.110(c)(1)	Used plural “units”
724.210(c)(2)	264.110(c)(2)	Added “adequately”
724.212(b)(8)	264.112(b)(8)	Changed “where the Regional Administrator as applied alternative requirements” to “where alternative requirements are established by the Board or Agency;” changed “and/or” to “or;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “enforceable document containing” to “Board order or Agency permit establishing”
724.212(c)(2)(C)	264.112(c)(2)(iii)	Replaced ending comma with a semicolon; added ending conjunction “or”
724.212(c)(2)(D)	264.112(c)(2)(iv)	Changed “Regional Administrator” to “Board or Agency;” changed “apply” to “establish;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “and/or” to “or”

724.218(b)(4)	264.118(b)(4)	Used singular “a facility;” changed “Regional Administrator” to “Board or Agency;” changed “applied” to “established;” changed “and/or” to “or;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “enforceable document containing” to “Board order or Agency permit establishing”
724.218(d)(2)(C)	264.118(d)(2)(iii)	Changed ending period to a semicolon; added ending conjunction “or”
724.218(d)(2)(D)	264.118(d)(2)(iv)	Changed “Regional Administrator” to “Board or Agency;” changed “applied” to “established;” changed “and/or” to “or”
724.240(d)	264.140(d)	Changed “Regional Administrator” to “Board” (twice); changed “may” to “will;” added “establish alternative requirements that;” added “financial assurance;” added “as provided under 35 Ill. Adm. Code 703.161;” added “has done the following”
724.240(d)(1)	264.140(d)(1)	Changed “prescribes” to “the Board has established;” added “established;” changed “and/or” to “or”
724.240(d)(2)	264.140(d)(2)	Added “the Board;” added “financial assurance;” added “adequately”
724.652(a)	264.552(a)	Changed “and/or” to “or”
724.653(a)	264.553(a)	Deleted unnecessary comma before “as a temporary unit;” changed owner/operator” to “owner or operator;” used plural “standards;” changed “which” to “that;” added “adequately”
724.654	264.554	Added “all;” deleted “Environmental Protection Agency (EPA);” added “Section”
724.654(a)	264.554(a)	Added “which;” changed owner/operator” to “owner or operator”
724.654(b)	264.554(b)	Changed “I” to “an owner or operator;” changed “you” to “an owner or operator;” changed “you follow” to “an owner or operator follows;” changed “must” to “shall” (twice)
724.654(c)	264.554(c)	Changed “I” to “an owner or operator;” changed “you must” to “an owner or operator shall”
724.654(c)(1)	264.554(c)(1)	Changed “your” to “the facility’s”
724.654(c)(2)	264.554(c)(2)	Changed “you provide” to “an owner or operator provides;” added “adequately”
724.654(c)(3)	264.554(c)(3)	Added “adequately”

724.654(d)	264.554(d)	Changed “must” to “shall”
724.654(d)(1)(B)	264.554(d)(1)(ii)	Added “adequately;” added conjunction “or”
724.654(d)(1)(D)	264.554(d)(1)(iv)	Changed “I” to “an owner or operator;” changed “you must” to “an owner or operator shall” (twice); changed “you place” to “an owner or operator places;” removed unnecessary comma before “or for three years” separating two-element series
724.654(d)(2)	264.554(d)(2)	Changed “must” to “shall”
724.654(d)(2)(A)	264.554(d)(2)(i)	Added definite article “the”
724.654(d)(2)(B)	264.554(d)(2)(ii)	Added definite article “the;” changed “you intend” to “an owner or operator intends”
724.654(d)(2)(C)	264.554(d)(2)(iii)	Added definite article “the”
724.654(d)(2)(D)	264.554(d)(2)(iv)	Added definite article “the”
724.654(d)(2)(E)	264.554(d)(2)(v)	Added definite article “the”
724.654(d)(2)(F)	264.554(d)(2)(vi)	Added definite article “the”
724.654(e)	264.554(e)	Changed “you must” to “an owner or operator shall”
724.654(e)(1)	264.554(e)(1)	Changed “you have” to “an owner or operator has;” changed “you” to “it;” changed “it” to “the waste;” added “the following is true of the waste”
724.654(e)(1)(B)	264.554(e)(1)(B)	Changed “you have” to “an owner or operator has”
724.654(e)(2)	264.554(e)(2)	Changed “you manage” to “an owner or operator manages”
724.654(f)	264.554(f)	Changed “do I” to “does an owner or operator;” changed “you must” to “an owner or operator shall”
724.654(f)(1)	264.554(f)(1)	Changed “you must” to “an owner or operator shall;” changed “you have” to “an owner or operator has”
724.654(f)(2)	264.554(f)(2)	Added a comma to offset final element of a series; changed “you must” to “an owner or operator shall”
724.654(f)(3)	264.554(f)(3)	Changed “you must” to “an owner or operator shall”
724.654(g)	264.554(g)	Added “federal” (twice)
724.654(h)	264.554(h)	Changed “I” to “an owner or operator;” changed “you must” to “an owner or operator shall”
724.654(i)	264.554(i)	Changed “I” to “an owner or operator”

724.654(i)(1)	264.554(i)(1)	Deleted “the Director;” changed “you must” to “an owner or operator shall;” added “the following is true of”
724.654(i)(1)(A)	264.554(i)(1)(A)	Added “continued operation”
724.654(i)(1)(B)	264.554(i)(1)(B)	Added “continued operation”
724.654(i)(2)	264.554(i)(2)	Changed “may” to “shall”
724.654(j)(1)	264.554(j)(1)	Changed “you must” to “an owner or operator shall;” added “of the following”
724.654(j)(2)	264.554(j)(2)	Changed “you must” to “an owner or operator shall;” added “adequately”
724.654(j)(3)	264.554(j)(3)	Changed “must” to “shall”
724.654(k)(1)	264.554(k)(1)	Changed “you must” to “an owner or operator shall;” removed unnecessary semicolon before “or according to . . .” separating two-element series
724.654(k)(2)	264.554(k)(2)	Changed “must” to “shall”
724.654(l)(1)	264.554(l)(1)	Added “of the following must occur”
724.654(l)(1)(A)	264.554(l)(1)(i)	Changed “must” to “shall”
724.654(l)(1)(B)	264.554(l)(1)(ii)	Changed “you must” to “an owner or operator shall”
724.654(l)(2)	264.554(l)(2)	Changed “you must” to “an owner or operator shall”
724.654(l)(3)	264.554(l)(3)	Changed “you must” to “an owner or operator shall”
724.654(l)(4)	264.554(l)(4)	Changed “you must” to “an owner or operator shall”
724.654(m)	264.554(m)	Changed “must” to “shall”
725.190(f)	264.90(f)	Changed “the Regional Administrator may” to “Board will or the Agency shall . . . a regulated unit that;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “Regional Administrator” to “Board or Agency;” added “the following”
725.190(f)(1)	264.90(f)(1)	Added definite article “the;” used plural “units”
725.190(f)(2)	264.90(f)(2)	Added “groundwater monitoring;” added “adequately”
725.210(c)	265.110(c)	Added “which;” changed “enforceable document” to “alternative requirements;” changed “as defined in” to “established pursuant to”

725.210(d)	265.110(d)	Changed “the Regional Administrator may” to “Board will or the Agency shall . . . a alternative requirements that;” added “closure and post-closure care;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “Regional Administrator” to “Board or Agency;” added “the following”
725.210(d)(1)	265.110(d)(1)	Added definite article “the;” used plural “units”
725.210(d)(2)	265.110(d)(2)	Changed “and/or” to “and;” added “adequately”
725.212(b)(7)	265.112(b)(7)	Replaced ending punctuation from a period to a semicolon; added conjunction “and”
725.212(b)(8)	265.112(b)(8)	Changed “Regional Administrator” to “Board or Agency;” changed “and/or” to “or;” added “as provided under 35 Ill. Adm. Code 703.161;” removed an unnecessary comma separating a two-element series; changed “enforceable document containing” to “Board order or Agency permit establishing”
725.212(c)(1)(C)	265.112(c)(2)(iii)	Replaced ending comma with a semicolon; added ending conjunction “or”
725.212(c)(1)(D)	264.112(c)(2)(iv)	Changed “Regional Administrator” to “Board or Agency;” changed “apply” to “establish;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “and/or” to “or”
725.218(c)(4)	264.118(c)(4)	Used singular “a facility”
725.218(c)(5)	264.118(c)(5)	Used singular “a facility;” changed “Regional Administrator” to “Board or Agency;” changed “applied” to “established;” changed “and/or” to “or;” added “as provided under 35 Ill. Adm. Code 703.161;” changed “enforceable document containing” to “Board order or Agency permit establishing”
725.218(d)(1)(C)	264.118(d)(1)(iii)	Changed “Regional Administrator” to “Board or Agency;” changed “applied” to “established;” changed “and/or” to “or”
725.221 Section heading	265.121	Added “alternative;” added “care”
725.221(a)	265.121(a)	Used singular “an owner or operator . . . is;” changed “who” to “that;” changed “but who obtain enforceable documents in lieu of post-closure permits” to “for which the Board or Agency has established alternative requirements;” changed “under” to “in;” changed “must” to “shall”
725.221(a)(2)	265.121(a)(2)	Added ending conjunction “and”

725.221(b)	265.121(b)	Added subsection heading
725.221(b)(1)	265.121(b)(1)	Added subsection heading
725.221(b)(1)(A)	265.121(b)(1)	Changed subsection indent level; changed “the Regional Administrator, in issuing enforceable documents” to “in issuing alternative requirements under this Section, the Board;” added parenthetical “as such . . . provisions of the Act;” added ending colon
725.221(b)(1)(A)	265.121(b)(1)(i)	Deleted conditional provision
725.221(b)(1)(A)	265.121(b)(1)(ii)	Deleted conditional provision
725.221(b)(1)(A)	265.121(b)(1)(iii)	Deleted conditional provision
725.221(b)(1)(A)(i)	265.121(b)(1)	Added citation for site-specific rulemaking
725.221(b)(1)(A)(ii)	265.121(b)(1)	Added citation for adjusted standard
725.221(b)(1)(A)(iii)	265.121(b)(1)	Added citation for variance
725.221(b)(1)(B)	265.121(b)(1)	Added introductory language
725.221(b)(1)(B)(1)	265.121(b)(2)	Moved adverb “immediately” before verb “implement;” changed “may” to “shall”
725.221(b)(1)(B)(2)	265.121(b)(3)	Used probable state effective date of “August 6, 1999” (twice); added “care;” added “adequately”
725.240(d)	265.140(d)	Changed “Regional Administrator” to “Board” (twice); changed “may” to “will;” added “establish alternative requirements that;” added “financial assurance;” added “as provided under 35 Ill. Adm. Code 703.161;” added “has done the following”
725.240(d)(1)	265.140(d)(1)	Changed “prescribes” to “the Board has established;” added “established;” changed “and/or” to “or”
725.240(d)(2)	265.140(d)(2)	Added “the Board;” added “financial assurance;” added “adequately”
726.180(a)	266.80(a)	Changed “you generate, collect, transport, store, or regenerate” to “an owner or operator generates, collects, transports, stores, or regenerates;” changed “you” to “the owner or operator;” changed “your” to “its”



726.180(a) table	266.80(a) table	Changed “your” to “the;” changed “you” to “and owner or operator” (three times); changed “* * *” to ellipses; changed “are” to “is” (eight times); changed “generate, collect, and/or transport” to “generates, collects, or transports;” removed unnecessary comma from a two-element series (four times); changed “store” to “stores” (twice); changed “you” to “the owner or operator” (three times); changed “reclaim” to “reclaims” (twice); changed “must” to “shall;” offset parenthetical “as appropriate” with commas; changed “don’t” to “does not”
726.180(b)	266.80(b)	Changed “you store” to “an owner or operator stores;” changed “you reclaim” to “it reclaims” (twice); changed “you” to “an owner or operator;” changed “you store” to “the owner or operator stores;” changed “your” to “its;” changed “you don’t” to “the owner or operator does not;” changed “your” to “the owner’s or operator’s”
726.180(b)(1)	266.80(b)(1)	Used singular “an interim status facility;” changed “you must” to “an owner or operator shall;” added “the following requirements”
726.180(b)(2)	266.80(b)(2)	Added indefinite article “an;” added “the following requirements”
726.180(b)(2)(A)	266.80(b)(2)(i)	Added definite article “the”
728.139(c)	268.39(c)	Omitted past effective date
728.140(j)	268.40(i)	Corrected conflicting subsection number; omitted past effective date; used “USEPA hazardous waste numbers;” referred to “Table T of this Part;” offset table title with commas; offset parenthetical “for nonwastewaters” with commas, deleting semicolon; removed comma after conjunction “and;” offset parenthetical “as defined by . . .” with commas (four times); separated major elements of a series with semicolons (three times); added explanatory Board note
728.Table T “K157”	268.40(a) table	Retained correct spelling of “carbamoyl”
728.Table T “K158”	268.40(a) table	Retained correct spelling of “carbamoyl”

728. Table T footnote 10	268.40(a) table	Referred to “the table in this Section;” offset parenthetical “for nonwastewaters” with commas, deleting semicolon; removed comma after conjunction “and;” offset parenthetical “as defined by . . .” with commas (four times); separated major elements of a series with semicolons (three times)
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### Board Amendments Not Federally-Derived

Section	Revision(s)
702.110 “Administrator”	Removed unnecessary comma
702.110 “elementary neutralization unit”	Added a comma to offset final element of a series
702.110 “physical construction”	Added a comma to offset final element of a series
702.110 Board Note	Updated citation to corresponding federal provision; changed indent level to reflect applicability to the entire Section
702.126(a)(1)(A)	Changed personal pronoun “who” to “that”
702.126(a)(1)(B) Board Note	Changed “above” to “of this Section” (twice)
702.126(b)	Changed “above” to “of this Section”
702.126(b)(1)	Changed “above” to “of this Section”
702.126(c)	Changed “above” to “of this Section”
702.126(d)(1)	Changed “above” to “of this Section;” changed personal pronoun “who” to “that” in the certification statement
702.126 Board Note	Updated citation to corresponding federal provision; changed indent level to reflect applicability to the entire Section
703.121(a)	Added comma to offset final element of a series
703.121(b)	Changed “post-closure permit” to “post-closure care permit” (twice); added comma to offset final element of a series
703.121(c)	Changed “post-closure permit” to “post-closure care permit”
703.121 Board Note	Updated citation to corresponding federal provision; changed indent level to reflect applicability to the entire Section
703.157	Moved “is made”
703.157(e)	Added a comma to offset final element of a series
703.157 Board Note	Updated citation to corresponding federal provision; changed indent level to reflect applicability to the entire Section
703.182 Board Note	Corrected Board Note format; updated citation to corresponding federal provision; changed indent level to reflect applicability to the entire Section
703.183	Added subsection (r) and renumbered subsections (r) through (u) to (s) through (v) to maintain structural consistency with the corresponding federal provision
703.183(b)	Added a comma to offset final element of a series

703.183 Board Note	Updated citation to corresponding federal provision; changed indent level to reflect applicability to the entire Section
703.Appendix A ¶ A.4.	Added a comma to offset final element of a series
703.Appendix A ¶ A.4.a.	Added a comma to offset final element of a series
703.Appendix A ¶ B.6.b.	Added a comma to offset final element of a series
703.Appendix A ¶ B.6.d.	Added a comma to offset final element of a series
703.Appendix A ¶ C.1.a.	Added a comma to offset final element of a series
703.Appendix A ¶ C.1.b.	Added a comma to offset final element of a series
703.Appendix A ¶ C.5.	Added a comma to offset final element of a series
703.Appendix A ¶ D.1.f.	Added a comma to offset final element of a series
703.Appendix A ¶ D.3.f.	Added a comma to offset final element of a series
703.Appendix A ¶ E.1.	Added a comma to offset final element of a series
703.Appendix A ¶ F.1.a.	Added a comma to offset final element of a series
703.Appendix A ¶ F.1.c.	Added spaces to separate sentences (twice)
703.Appendix A ¶ F.4.a.	Added spaces to separate sentences (twice)
703.Appendix A ¶ F.4.b.	Added spaces to separate sentences (twice)
703.Appendix A ¶ G.1.c.	Added a comma to offset final element of a series
703.Appendix A ¶ G.1.d.	Added a comma to offset final element of a series
703.Appendix A ¶ G.1.e.	Added spaces to separate sentences (twice)
703.Appendix A ¶ G.5.c.	Added spaces to separate sentences
703.Appendix A ¶ G.5.d.	Added spaces to separate sentences
703.Appendix A ¶ H.3.	Added a comma to offset final element of a series
703.Appendix A ¶ H.5.	Added a comma to offset final element of a series

703.Appendix A ¶ H.5.c.	Added spaces to separate sentences
703.Appendix A ¶ H.5.d.	Added spaces to separate sentences
703.Appendix A ¶ I.	Added spaces to separate sentences (twice)
703.Appendix A ¶ J.3.	Added a comma to offset final element of a series
703.Appendix A ¶ J.4.	Added a comma to offset final element of a series
703.Appendix A ¶ J.6.a.	Added a comma to offset final element of a series
703.Appendix A ¶ J.6.b.	Added a comma to offset final element of a series
703.Appendix A ¶ J.6.c.	Added spaces to separate sentences
703.Appendix A ¶ J.6.d.	Added spaces to separate sentences
703.Appendix A ¶ K.13.	Added a comma to offset final element of a series
703.Appendix A ¶ L.1.	Added a comma to offset final element of a series; added spaces to separate sentences
703.Appendix A ¶ L.2.	Added a comma to offset final element of a series; added spaces to separate sentences
703.Appendix A ¶ L.3.	Added a comma to offset final element of a series (three times); added spaces to separate sentences
703.Appendix A ¶ L.4.	Added a comma to offset final element of a series; added missing spaces between sentences
703.Appendix A ¶ L.5.a.	Added a comma to offset final element of a series; added spaces to separate sentences
703.Appendix A ¶ L.8.	Corrected “nonhazardous” to “non-hazardous”
703.Appendix A Board Note	Updated the <i>Code of Federal Regulations</i> and <i>Federal Register</i> citation
720.110 “active portion”	Added a comma to offset final element of a series
720.110 “ancillary equipment”	Added a comma to offset final element of a series
720.110 “aquifer”	Added a comma to offset final element of a series
720.110 “authorized representative”	Added a comma to offset final element of a series
720.110 “aquifer”	Added a comma to offset final element of a series
720.110 “boiler”	Added a comma to offset final element of a series
720.110 “container”	Added a comma to offset final element of a series
720.110 “contingency plan”	Added a comma to offset final element of a series

720.110 “corrective action management unit”	Added “or ‘CAMU’”
720.110 “designated facility”	Added a comma to offset final element of a series
720.110 “dike”	Added a comma to offset final element of a series
720.110 “discharge”	Added a comma to offset final element of a series
720.110 “disposal”	Added a comma to offset final element of a series
720.110 “elementary neutralization unit”	Added a comma to offset final element of a series
720.110 “EPA identification number”	Added a comma to offset final element of a series
720.110 “federal, state, and local approvals or permits necessary to begin physical construction”	Added a comma to offset final element of a series
720.110 “hazardous waste management unit”	Added a comma to offset final element of a series
720.110 “incinerator”	Added a comma to offset final element of a series
720.110 “incompatible waste”	Added a comma to offset final element of a series
720.110 “in operation”	Added a comma to offset final element of a series
720.110 “liner”	Added a comma to offset final element of a series (twice)
720.110 “miscellaneous unit”	Changed “which” to “that;” added a comma to offset final element of a series (twice); changed commas to semicolons for a super-series (ten times); added a semicolon to offset the final element of a series
720.110 “owner”	Changed “who” to “that”
720.110 “point source”	Added a comma to offset final element of a series
720.110 “qualified groundwater scientist”	Added a comma to offset final element of a series
720.110 “replacement unit”	Added a comma to offset final element of a series (twice)
720.110 “runoff”	Added a comma to offset final element of a series
720.110 “runon”	Added a comma to offset final element of a series
720.110 “sludge”	Added a comma to offset final element of a series (three times)
720.110 “storage”	Added a comma to offset final element of a series
720.110 “sump”	Moved definition into alphabetical order within the Section; added a comma to offset final element of a series
720.110 “surface impoundment”	Added a comma to offset final element of a series (twice)
720.110 “thermal treatment”	Added a comma to offset final element of a series
720.110 “transportation”	Added a comma to offset final element of a series
720.110 “transporter”	Added a comma to offset final element of a series

720.110 “treatment”	Added a comma to offset final element of a series (four times)
720.110 “treatment zone”	Added a comma to offset final element of a series
720.110 “underground injection”	Added a comma to offset final element of a series
720.111(b)	Updated edition of the <i>Code of Federal Regulations</i> incorporated by reference; added incorporations of 40 C.F.R. 232.2 and 40 C.F.R. 270.5
721.104(a)(8)(B)	Added a comma to offset final element of a series
721.104(a)(12)(B)	Separated from preceding subsection (a)(12) by adding hard returns
721.104(a)(14)(B)	Added a comma to offset final element of a series
721.104(a)(16)(C)	Added a comma to offset final element of a series
721.104(a)(18)(B)	Corrected subsection number format by adding parenthesis mark
721.104(f)(4)	Corrected “nonhazardous” to “non-hazardous”
724 table of contents	Added a comma to offset final element of a series in the heading for Section 724.101; added “care” to heading for Subpart G; changed “post closure” to capitalized “post-closure care” in heading for Section 724.218
724.101 Section heading	Added a comma to offset final element of a series
724.101(g)(8)(D)	Added “adequately;” changed “who” to “that”
724.173(b)(8)	Changed “post-closure” to “post-closure care”
724.190(a)(2)	Added a comma to offset final element of a series
724.190(b)(2)(C)	Added a comma to offset final element of a series
724.190(c)(4)	Added a comma to offset final element of a series
724.201(a)	Added a comma to offset final element of a series; added “adequately”
724.201(c)	Changed “must” to “shall;” added “adequately”
724.Subpart G heading	Added “care”
724.212(b)(3)	Added a comma to offset final element of a series
724.212(b)(4)	Added a comma to offset final element of a series (twice)
724.212(c)	Added a comma to offset final element of a series
724.212(c)(2)(A)	Deleted unnecessary conjunction “or”
724.212(c)(2)(B)	Deleted unnecessary conjunction “or;” replaced ending comma with a semicolon
724.218 Section heading	Changed “post closure” to “post-closure care”
724.218(a)	Added “care” (five times)
724.218(b)	Added “care”
724.218(b)(1)	Added a comma to offset final element of a series
724.218(b)(2)(A)	Added a comma to offset final element of a series
724.218(b)(2)(B)	Added a comma to offset final element of a series; replaced ending semicolon with a period; removed unnecessary ending conjunction “and”
724.218(b)(3)	Added a comma to offset final element of a series; added “care”
724.218(c)	Added “care” (three times)

724.218(d)	Added “care” (twice)
724.218(d)(1)	Added “care”
724.218(d)(2)	Added “care;” added “whenever any of the following occurs” and ending colon
724.218(d)(2)(A)	Added “care;” removed unnecessary ending conjunction “or”
724.218(d)(2)(C)	Added “care;” removed unnecessary ending conjunction “or”
724.218(d)(3)	Added “care” (four times); added a comma to offset final element of a series
724.218(d)(4)	Added “care”
724.652(a)	Corrected “720.10” to “720.110”
724.652(e)(4)	Added “care”
724.652(e)(4)(A)(ii)	Added “adequately”
724.652(e)(4)(D)	Added “care;” added “adequately;” added a comma to offset final element of a series
724.652 Board note	Deleted unnecessary cross-reference to corresponding federal provision; changed “U.S. EPA” to “USEPA” (three times)
724.653 Board note	Deleted unnecessary cross-reference to corresponding federal provision; changed “U.S. EPA” to “USEPA” (three times)
725 table of contents	Added a comma to offset final element of a series in the heading for Section 725.101; added “care” to heading for Subpart G; changed “post closure” to capitalized “post-closure care” in heading for Section 725.218
725.101 Section heading	Added a comma to offset final element of a series
725.101(a)	Added “care” (twice)
725.101(b)	Added “care”
725.101(b)(1)(A)	Added a comma to offset final element of a series
725.101(c)(3)	Added a comma to offset final element of a series
725.101(c)(10)	Changed “must” to “shall”
725.101(c)(11)(B)	Changed “must” to “shall”
725.101(c)(11)(D)	Added “adequately;” changed “who” to “that”
725.101(d)	Added a comma to offset final element of a series
725.190(a)	Added a comma to offset final element of a series; changed “must” to “shall”
725.190(b)	Changed “must” to “shall” (twice); added a comma to offset final element of a series
725.190(c)(1)(A)	Added a comma to offset final element of a series
725.190(c)(1)(B)	Added a comma to offset final element of a series
725.190(c)(2)(A)	Added a comma to offset final element of a series
725.190(d)	Added a comma to offset final element of a series; changed “he must” to “it shall”
724.212(a)	Changed to lower case “plan;” added a comma to offset final element of a series
725.212(b)(1)	Deleted unnecessary conjunction “and”

725.212(b)(2)	Deleted unnecessary conjunction “and”
725.212(b)(3)	Added a comma to offset final element of a series; deleted unnecessary conjunction “and”
725.212(b)(4)	Added a comma to offset final element of a series (twice); deleted unnecessary conjunction “and”
725.212(b)(5)	Deleted unnecessary conjunction “and”
725.212(b)(6)	Deleted unnecessary conjunction “and”
725.212(b)(4)	Deleted unnecessary conjunction “and”
725.212(c)(1)(A)	Replaced ending comma with a semicolon; deleted unnecessary ending conjunction “or”
725.212(c)(1)(B)	Replaced ending comma with a semicolon; deleted unnecessary ending conjunction “or”
725.212(c)(2)	Changed “who” to “that”
725.212(c)(3)	Changed “who” to “that;” corrected “702.280” to “703.280;” removed comma from cross-reference and changed “below” to “of this Section”
725.212(c)(4)	Removed comma from cross-reference and changed “below” to “of this Section;” changed “who” to “that;” corrected “702.280” to “703.280;” removed comma from cross-reference and changed “below” to “of this Section”
725.212(d)(1)(A)	Added a comma to offset final element of a series
725.212(d)(1)(C)	Added a comma to offset final element of a series
725.212(d)(1)(D)	Added a comma to offset final element of a series
725.212(d)(1)(F)	Added a comma to offset final element of a series
725.212(d)(4)	Added a comma to offset final element of a series
725.218 Section heading	Changed “post closure” to “post-closure care”
725.218(a)	Added “care” (twice)
725.218(b)	Added “care” (four times); added a comma to offset final element of a series
725.218(c)	Added “care”
725.218(c)(1)	Added a comma to offset final element of a series; added “care”
725.218(c)(2)(A)	Added a comma to offset final element of a series
725.218(c)(2)(B)	Added a comma to offset final element of a series; replaced ending semicolon with a period; removed unnecessary ending conjunction “and”
725.218(c)(3)	Added a comma to offset final element of a series
725.218(d)	Added “care” (three times)
725.218(d)(1)	Added “care”
725.218(d)(1)(A)	Added “care”
725.218(d)(1)(B)	Added “care”
725.218(d)(2)	Added “care” (twice)
725.218(d)(3)	Added “care” (four times); changed “who” to “that”



725.218(d)(4)	Deleted “above” from and added “of this Section” to cross-reference; added “care” (twice); changed “who” to “that”
725.218(e)	Added “care”
725.218(f)(1)	Added “care” (four times)
725.218(g)	Added “care” (twice)
725.218(g)(1)(A)(i)	Added “care;” added a comma to offset final element of a series
725.218(g)(1)(B)(i)	Added “care”
725.218(g)(2)	Added “care”
725.218(g)(2)(B)	Added “care”
725.240(b)(3)	Changed ending punctuation from a period to a comma
726.180(b)(1)(A)	Added definite article “the;” added abbreviation “RCRA” in parentheses
726.180(b)(1)(G)	Added a comma to offset final element of a series
726.200(a)	Deleted “below” from and added “of this Section” to cross-reference
726.200(b)(4)	Changed “U.S. EPA” to “USEPA”
726.200(c)	Added a comma to offset final element of a series
726.200(c)(1)	Deleted “below” from and added “of this Section” to cross-reference
726.200(c)(1)(A)(ii)	Deleted “below” from and added “of this Section” to cross-reference
726.200(c)(1)(C)	Changed “nonhazardous” to “non-hazardous”
726.200(c)(2)(A)	Deleted “above” from and added “of this Section” to cross-reference
726.200(c)(2)(B)	Deleted “above” from and added “of this Section” to cross-reference
726.200(c)(3)	Changed “must” to “shall;” deleted “above” from and added “of this Section” to cross-reference (twice)
726.200(c)(3)(A)	Changed cross-reference format to “Appendices K, L, and M of this Part;” deleted “above” from and added “of this Section” to cross-reference
726.200(c)(3)(A)(i)	Changed cross-reference format to “Appendix K of this Part;” changed cross-reference format to “Appendix L of this Part;” changed cross-reference format to “Appendix M of this Part”
726.200(c)(3)(A)(iv)	Deleted “above” from and added “of this Section” to cross-reference (three times)
726.200(c)(3)(B)	Changed cross-reference format to “Appendix K of this Part;” changed cross-reference format to “Appendix L of this Part;” changed cross-reference format to “Appendix M of this Part”
726.200(c)(3)(B)(iii)	Changed cross-reference format to “Appendix D or E of this Part”
726.200(f)	Corrected spelling of “regulated”
726.200(g) “RAC”	Changed cross-reference format to “Appendix D of this Part”
726.200(g) “RSD”	Changed cross-reference format to “Appendix E of this Part”
726.200(g) “toxicity equivalence”	Changed cross-reference format to “Appendix I of this Part”
728 Table of contents	Corrected heading for Section 728.139 to agree with the federal text
728.102 “halogenated organic compounds”	Changed cross-reference format to “Appendix C of this Part”

728.102 “inorganic metal-bearing waste”	Changed cross-reference format to “Appendix K of this Part”
728.102 “land disposal”	Added “‘land disposal’;” removed comma from two-element series; added comma to offset final element of a series
728.102 “USEPA”	Moved the alternative defined term “‘U.S. EPA’”
728.139	Corrected the Section heading to agree with the federal text
728.139(c)	Deleted past effective date
728.139(e)	Replaced expired provision with explanatory language
728.139(g)	Changed “must” to “shall”
728.140(e)	Changed “nonhazardous” to “non-hazardous”
728.150(a)(1)	Added a comma to offset final element of a series (twice); changed “who” to “that;” changed “who” to “which;” changed “must” to “shall”
728.150(a)(2)	Added a comma to offset final element of a series (three times); corrected spelling of “containment”
728.150(a)(3)	Added ending period
728.150(b)	Added a comma to offset final element of a series (twice)
728.150(c)	Added a comma to offset final element of a series (twice)
728.150(f)	Deleted “above” from and added “of this Section” to cross-reference
728.Table T “F027”	Corrected spelling of “containing”
728.Table T “F037”	Added a comma to offset the final element of a series (twice); corrected spelling of aggressive (twice)
728.Table T “F038”	Added a comma to offset the final element of a series (twice); corrected spelling of aggressive (twice)
728.Table T “K156”	Deleted parenthetical statement not present in the federal text
728.Table T “K157”	Deleted parenthetical statement not present in the federal text
728.Table T “K158”	Deleted parenthetical statement not present in the federal text
728.Table T footnote 8	Changed “nonhazardous” to “non-hazardous”
728.Table T footnote 9	Changed “nonhazardous” to “non-hazardous”
728.Table T Board note	Updated reference to <i>Code of Federal Regulations</i> and <i>Federal Register</i> citations
728.Table U footnote 6	Changed footnote to reflect that USEPA removed it
728.Table U Board note	Updated reference to <i>Code of Federal Regulations</i> and <i>Federal Register</i> citations

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

The Board appends the following three discussions to this opinion. The first is a summary history of the Illinois RCRA Subtitle C and UIC programs. It lists all Board actions taken to adopt and maintain these programs since their inceptions. It includes a listing of all site-specific rulemaking and adjusted standards proceedings filed that relate to these programs. It also lists all USEPA program authorizations issued to date. The second is a discussion of

how the Board codifies requirements that call for state determinations, such as exemptions or exceptions. The third discussion relates to our use of language in the codification of identical-in-substance rules. We intend these as reference aids for interested persons in the regulated community.

#### History of RCRA Subtitle C and UIC Adoption

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

700	Outline of Waste Disposal Regulations (Repealed)
702	RCRA Subtitle C and UIC Permit Programs
703	RCRA Subtitle C Permit Program
704	UIC Permit Program
705	Procedures for Permit Issuance
709	Wastestream Authorizations
720	General
721	Identification and Listing
722	Generator Standards
723	Transporter Standards
724	Final TSD Standards
725	Interim Status TSD Standards
726	Specific Wastes and Management Facilities
728	USEPA Land Disposal Restrictions
729	Landfills: Prohibited Wastes
730	UIC Operating Requirements
731	Underground Storage Tanks
732	Petroleum Underground Storage Tanks
733	Standards for Universal Waste Management
738	Hazardous Waste Injection Restrictions
739	Standards for the Management of Used Oil

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

#### History of RCRA Subtitle C and State Hazardous Waste Rules Adoption

The Board has adopted and amended the Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste rules in several dockets. Dockets R81-22 and R82-18 dockets dealt with the Phase I RCRA Subtitle C regulations. The Board adopted RCRA Subtitle C Phase II regulations in Parts 703 and 724 in dockets R82-19 and R83-24. USEPA reviewed and authorized the Illinois Phase I and Phase II regulations. The entire listing of all RCRA Subtitle C identical-in-substance rulemakings follows (with the period of corresponding

federal revisions indicated in parentheses). A listing of federal authorizations of the Illinois program to date, as noticed in the *Federal Register*, appears at the end of this historical summary of the Illinois hazardous waste program.

- R81-22      45 PCB 317, September 16, 1981 and February 4, 1982; 6 Ill. Reg. 4828, April 23, 1982, effective May 17, 1982. (5/19/80 through 10/1/81)
- R82-18      51 PCB 31, January 13, 1983; 7 Ill. Reg. 2518, March 4, 1983, effective May 17, 1982. (11/11/81 through 6/24/82)
- R82-19<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 and 521, June 13 and 27, 1985; 9 Ill. Reg. 11964, August 2, 1985, effective July 8 and 24, 1985. (1/19/83 through 4/24/84)
- R85-22      67 PCB 175, 479, December 20, 1985 and January 9, 1986; 10 Ill. Reg. 968, January 17, 1986, effective January 2, 1986. (4/25/84 through 6/30/85)
- R86-1        71 PCB 110, July 11, 1986; 10 Ill. Reg. 13998, August 22, 1986, effective August 12, 1986. (7/1/85 through 1/31/86)
- R86-19      73 PCB 467, October 23, 1986; 10 Ill. Reg. 20630, December 12, 1986, effective December 2, 1986. (2/1/86 through 3/31/86)
- R86-28      75 PCB 306, February 5, 1987; and 76 PCB 195, March 5, 1987; 11 Ill. Reg. 6017, April 3, 1987, effective March 23, 1987. Correction at 77 PCB 235, April 16, 1987; 11 Ill. Reg. 8684, May 1, 1987, effective April 21, 1987. (4/1/86 through 6/30/86)
- R86-46      79 PCB 676, July 16, 1987; 11 Ill. Reg. 13435, August 14, 1987, effective August 4, 1987. (7/1/86 through 9/30/86)
- R87-5        82 PCB 391, October 15, 1987; 11 Ill. Reg. 19280, November 30, 1987, effective November 10 and 12, 1987. (10/1/86 through 12/31/86)
- R87-26      84 PCB 491, December 3, 1987; 12 Ill. Reg. 2450, January 29, 1988, effective January 15, 1988. (1/1/87 through 6/30/87)

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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).

- R87-32 Correction to R86-1; 81 PCB 163, September 4, 1987; 11 Ill. Reg. 16698, October 16, 1987, effective September 30, 1987.
- R87-39 90 PCB 267, June 16, 1988; 12 Ill. Reg. 12999, August 12, 1988, effective July 29, 1988. (7/1/87 through 12/31/87)
- R88-16 93 PCB 513, November 17, 1988; 13 Ill. Reg. 447, January 13, 1989, effective December 28, 1988. (1/1/88 through 7/31/88)
- R89-1 103 PCB 179, September 13, 1989; 13 Ill. Reg. 18278, November 27, 1989, effective November 13, 1989. (8/1/88 through 12/31/88)
- R89-9 109 PCB 343, March 8, 1990; 14 Ill. Reg. 6225, April 27, 1990, effective April 16, 1990. (1/1/89 through 6/30/89)
- R90-2 113 PCB 131, July 3, 1990; 14 Ill. Reg. 14401, September 7, 1990, effective August 22, 1990. (7/1/89 through 12/31/89)
- R90-11 121 PCB 97, April 11, 1991; corrected at 122 PCB 305, May 23, 1991; corrected at 125 PCB 117, August 8, 1991; uncorrected at 125 PCB 435, August 22, 1991; 15 Ill. Reg. 9323, effective June 17, 1991. (Third Third Land Disposal Restrictions) (4/1/90 through 6/30/90)
- R90-17 Delisting Procedures (See below)
- R91-1 125 PCB 119, August 8, 1991; 15 Ill. Reg. 14446, effective September 30, 1991. (Wood Preserving Rules) (7/1/90 through 12/30/90)
- R91-13 132 PCB 263, April 9, 1992; 16 Ill. Reg. 9489, effective June 9, 1992. (Boilers and Industrial Furnaces (BIFs) Rules) (1/1/91 through 6/30/91)
- R91-26 129 PCB 235, January 9, 1992; 16 Ill. Reg. 2600, effective February 3, 1992. (Wood Preserving Rules Compliance Dates)
- R92-1 136 PCB 121, September 17, 1992; 16 Ill. Reg. 17636, effective November 6, 1992. (7/1/91 through 12/31/91)
- R92-10 138 PCB 549, January 21, 1993; 17 Ill. Reg. 5625, effective March 26, 1993. (Leak Detection Systems (LDS) Rules) (1/1/92 through 6/30/92)
- R93-4 September 23, 1993; 17 Ill. Reg. 20545, effective November 22, 1993. (Used Oil Rules) (7/1/92 through 12/31/92)

- R93-16 March 17, 1994, Supplemental opinion and order on April 21, 1994. (1/1/93 through 6/30/93)
- R94-7 June 23, 1994; 18 Ill. Reg. 12160, effective July 29, 1994. (7/1/93 through 12/31/93)
- R94-17 October 20, 1994; 18 Ill. Reg. 17480, effective November 23, 1994. (1/1/94 through 6/30/94)
- R95-6 June 1 and 15, 1995; 19 Ill. Reg. 9501, effective June 27, 1995. (Consolidated with R95-4, UIC Update.) (7/1/94 through 12/31/94)
- R95-20 June 20, 1996; 20 Ill. Reg. 10929, effective August 1, 1996. (1/1/95 through 6/30/95)
- R96-10 November 6, 1997, 22 Ill. Reg. 256, effective December 16, 1997. (Consolidated with R97-3, UIC Update, and R97-5, RCRA Subtitle C update.) (7/1/95 through 12/31/95)
- R97-5 November 6, 1997, 22 Ill. Reg. 256, effective December 16, 1997. (Consolidated with R96-10, RCRA Subtitle C update, and R97-3, UIC Update.) (1/1/96 through 6/30/96)
- R97-21 August 20, 1998. (Consolidated with R98-5, RCRA Subtitle C update, and R98-3, UIC Update.) (7/1/96 through 12/31/96)
- R98-5 August 20, 1998. (Consolidated with R97-21, RCRA Subtitle C update, and R98-3, UIC update.) (1/1/97 through 6/30/97)
- R98-21 December 17, 1998. (Consolidated with R99-2, RCRA Subtitle C update, and R99-7, UIC update.) (7/1/97 through 12/31/97)
- R99-2 December 17, 1998. (Consolidated with R98-21, RCRA Subtitle C update, and R99-7, UIC update.) (1/1/98 through 6/30/98)
- R99-15 This docket. (7/1/98 through 12/31/98)

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)

On April 30, 1990, USEPA authorized Illinois to grant waste delistings. Upon this authorization, 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, and 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.)
- AS97-9           Granted, September 3, 1998. (Recycle Technologies, Inc.)

AS99-3 Presently pending. (Big River Zinc Corp.)

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, and 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, and 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 related 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)

A final adjusted standard filed under 35 Ill. Adm. Code 725.213(e) allowed the continued operation of a lagoon that had formerly received hazardous waste but which did not comply with the liner and leachate collection system requirements of 35 Ill. Adm. Code 725.321 (petitioner's name and requirements involved in parentheses):

AS98-6      Granted March 18, 1999. (Metropolitan Water Reclamation District of Greater Chicago)

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

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

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

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

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

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

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

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

USEPA periodically reviews the Illinois hazardous waste program. As a result of these reviews, USEPA has granted Illinois a number of authorizations. The *Federal Register* citations for the authorizations are listed as follows:

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

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

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

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

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

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

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

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

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

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

#### History of UIC Rules Adoption

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

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

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

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

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

- R94-5 November 3, 1994; 18 Ill. Reg. 18244, effective December 20, 1994. (7/1/93 through 12/31/93)
- R94-24 October 6, 1994. (USEPA amendments 7/1/93 through 12/31/94 included in RCRA Subtitle C docket R94-17)
- R95-4 June 1 and 15, 1995; 19 Ill. Reg. 9501, effective June 27, 1995. (Consolidated with R95-6, RCRA Subtitle C Update.) (7/1/94 through 12/31/94)
- R95-18 Dismissed October 5, 1995. (No USEPA amendments 1/1/95 through 6/30/95)
- R96-8 Dismissed February 15, 1996. (No USEPA amendments 7/1/95 through 12/31/95)
- R97-3 November 6, 1997, 22 Ill. Reg. 256, effective December 16, 1997. (Consolidated with R96-10 and R97-5, RCRA Subtitle C updates.) (1/1/96 through 6/30/96)
- R97-19 Dismissed May 1, 1997. (No USEPA amendments 7/1/96 through 12/31/96)
- R98-3 August 20, 1998. (Consolidated with R97-21 and R98-5 RCRA Subtitle C updates.) (1/1/97 through 6/30/97)
- R98-19 Dismissed February 19, 1998. (No USEPA amendments 7/1/97 through 12/31/97)
- R99-7 December 17, 1998. (Consolidated with R98-21 and R99-2, RCRA Subtitle C updates.) (1/1/98 through 6/30/98)
- R99-13 Dismissed February 18, 1999. (No USEPA amendments 7/1/98 through 12/31/98)

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

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

USEPA authorized the Illinois UIC program on March 3, 1984, at 49 Fed. Reg. 3991 (Feb. 1, 1984); codified that approval as 40 C.F.R. 147, Subpart O, at 49 Fed. Reg. 20197

(May 11, 1984); and amended the authorization at 53 Fed. Reg. 43087 (Oct. 25, 1988) and 56 Fed. Reg. 9414 (Mar. 6, 1991).

### Agency or Board Action

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

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

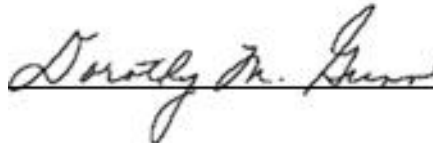
In some identical-in-substance rules, certain decisions pertaining to a permit application are not appropriate for the Agency to consider. In determining the general division of authority between the Agency and the Board, the following factors should be considered:

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

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

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above opinion was adopted on the 8th day of April 1999 by a vote of 6-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board