

ILLINOIS POLLUTION CONTROL BOARD
November 3, 1983

IN THE MATTER OF:)
) R82-19
PHASE II RCRA RULES)
)
 and)
)
IN THE MATTER OF:)
) R83-24
TECHNICAL CORRECTIONS TO)
PHASE II RCRA RULES)

ORDER OF THE BOARD (by D. Anderson):

On October 13, 1983 Illinois Power Company filed a motion for reconsideration and a motion to correct error with respect to the final rules which were filed with the Secretary of State on October 12, 1983. The Board's Order of July 26, 1983 keyed the appeal period to the date of filing of the rules.

Once a rule has been filed, motions for reconsideration are untimely, as the Board's authority to change filed rules without initiating a new rulemaking is questionable. Therefore the motions to reconsider and correct error are denied.

However, for the purpose of considering the changes in the filed rules requested in the motions, the Board will construe them as a petition for rulemaking.

Illinois Power requests that all of Part 703 be made immediately effective. The Board is reluctant to consider such major change without affording other participants the opportunity to respond. Furthermore, additional requests for changes could yet be filed. Amendment of the rules, which involves substantial paperwork, would be far simpler to do all at once. The Board will therefore defer action on any proposed changes.

The Board invites filing of additional requests for changes through November 16, and responses through November 30, 1983. This, and any other requests for changes will be docketed as R83-24, In the Matter of Technical Corrections to Phase II RCRA Rules.

The Board also notes two related problems with the rules which are not addressed in the Illinois Power motion. First, the main source note to Part 703 indicates that it is effective immediately, in conflict with Section 700.106. Second, a conflict with the local government siting approval process may arise if Section 700.501(b) is made immediately effective. The Board solicits comment on these problems through November 30.

IT IS SO ORDERED.

Board Chairman J.D. Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 3RD day of November, 1983 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board