

ILLINOIS POLLUTION CONTROL BOARD
July 11, 1986

IN THE MATTER OF:)
)
RCRA UPDATE, USEPA REGULATIONS) R86-19
(2/1/86 THROUGH 3/31/86))

PROPOSAL FOR PUBLIC COMMENT.

PROPOSED OPINION OF THE BOARD (by J. Anderson):

By a separate Order, pursuant to Section 22.4(a) of the Environmental Protection Act (Act), the Board is proposing to amend the RCRA regulations as adopted in R86-1. In accordance with the RCRA procedural rules (Section 102.202), the Board invites public comment for 45 days after publication of the proposal in the Illinois Register.

On May 22, 1986 the Board opened this docket for the purpose of updating the RCRA rules to agree with recent USEPA amendments.

Section 22.4(a) of the Act governs adoption of regulations establishing the RCRA program in Illinois. Section 22.4(a) provides for quick adoption of regulations which are "identical in substance" to federal regulations. Neither Title VII of the Act nor Section 5 of the Administrative Procedure Act applies to rules adopted under Section 22.4(a). Because this rulemaking is not subject to Section 5 of the Administrative Procedure Act, it is not subject to review by the Joint Committee on Administrative Rules (JCAR). The federal RCRA regulations are found at 40 CFR 260 through 270, and 280. This rulemaking updates Illinois' RCRA rules to correspond with federal amendments adopted through March 31, 1986. The Federal Registers utilized are as follows:

February 13, 1986;	51 Fed. Reg. 5327 - 5331
February 25, 1986;	51 Fed. Reg. 6537 - 6542
March 24, 1986;	51 Fed. Reg. 10145 - 10178

HISTORY OF RCRA and UIC ADOPTION

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

702	RCRA and UIC Permit Programs
703	RCRA Permit Program
704	UIC Permit Program
705	Procedures for Permit Issuance
709	Wastestream Authorizations
720	General
721	Identification and Listing

722	Generator Standards
723	Transporter Standards
724	Final TSD Standards
725	Interim Status TSD Standards
726	Specific Wastes and Management Facilities
729	Landfills: Prohibited Wastes
730	UIC Operating Requirements
731	Underground Storage Tanks

Special procedures for RCRA cases are included in Parts 102, 103, 104 and 106.

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

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

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

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

The UIC rules were adopted as follows:

R81-32 47 PCB 93, May 13, 1982; October 15, 1982, 6 Ill. Reg. 12479.

The UIC rules were amended in R82-18, which is referenced above. The UIC rules were also amended in R83-39:

R83-39 55 PCB 319, December 15, 1983; 7 Ill. Reg. 17338, December 20, 1983.

Illinois received UIC authorization February 1, 1984. The Board has recently updated the UIC rules:

R85-23 June 20, 1986.

The Phase II RCRA rules included adoption of Parts 703 and 724, which established the permit program and final TSD standards. The Phase II rules were adopted and amended as follows:

R82-19 53 PCB 131, July 26, 1983, 7 Ill. Reg. 13999, October 28, 1983.

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

On September 6, 1984, the Third District Appellate Court upheld the Board's actions in adopting R82-19 and R83-24.

(Commonwealth Edison et al. v. IPCB, 127 Ill. App. 3d 446, 468 N.E. 2d 1339 (3rd Dist. 1984).)

The Board updated the RCRA rules to correspond with USEPA amendments in three dockets:

- R84-9 June 13, 1985; 9 Ill. Reg. 11964, effective July 24, 1985.
- R85-22 December 20, 1985 and January 9, 1986; 10 Ill. Reg. 968, effective January 2, 1986.
- R86-1 July 11, 1986;

Illinois received final authorization for the RCRA program effective January 31, 1986.

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

- R84-34 November 21, 1984, 61 PCB 247; 8 Ill. Reg. 24562, effective December 11, 1984.

This was effectively repealed by R85-22, which included adoption of USEPA's dioxin listings.

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

- R84-10 December 20, 1984 and January 10, 1985, 62 PCB 87, 349; 9 Ill. Reg. 1383, effective January 16, 1985.

The Board also adopted in Part 106 special procedures to be followed in certain determinations. Part 106 was adopted in R85-22, which is listed above.

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

- R81-25 October 25, 1984, 60 PCB 381; 8 Ill. Reg. 24124, December 4, 1984;
- R83-28 February 26, 1986; 10 Ill. Reg. 4875, effective March 7, 1986.

The Board has opened two new dockets dealing with restrictions on landfilling liquid hazardous waste. R86-9 concerns implementation of Section 39(h) of the Act, while R86-11 concerns the relationship of the liquid hazardous waste ban to the USEPA liquid hazardous waste bans. (Orders of February 26, 1986, and June 11, 1986.)

DETAILED DISCUSSION

The USEPA amendments involved in this update are summarized as follows:

- | | |
|--------------------|---|
| 51 Fed. Reg. 5330 | Listing of wastes produced from the manufacture of ethylene dibromide. |
| 51 Fed. Reg. 6541 | Listing of solvent wastes from use of 1,1,2-trichloroethane, benzene, 2-ethoxyethanol and nitropropane. |
| 51 Fed. Reg. 10174 | Regulation of generators between 100 and 1000 kg per month |

Section 703.124

This Section is drawn from 40 CFR 270.1, which was amended at 51 Fed. Reg. 10174. Paragraph (a) has been amended to remove the reference to the 90 day accumulation period. Instead, the time periods of Section 722.134 are referenced generally, since they will no longer all be 90 days.

Section 703.150

This Section is drawn from 40 CFR 270.10(e), which was amended at 51 Fed. Reg. 10174. It was also recently amended in R86-1. Paragraph (d) has been added. This will require small quantity generators of more than 100 kg per month which dispose of hazardous waste on-site to apply for permits by March 24, 1987.

Section 720.110

This Section is drawn from 40 CFR 260.1, which was amended at 51 Fed. Reg. 10174. "Small quantity generator" has been defined as a person who generates less than 1000 kg in a calendar month. Note that this includes persons who generate less than 100 kg per month.

Section 721.101

This Section is drawn from 40 CFR 261.1, which was amended at 51 Fed. Reg. 10174. Paragraph (a)(1) has been amended to reference "conditionally exempt" small quantity generators, which is defined in Section 721.105. A reference to Part 726 has also been added, and the terminology referencing recycled waste has been updated.

Section 721.105

This Section is drawn from 40 CFR 261.5, which was amended at 51 Fed. Reg. 10174. It was also recently amended in R86-1. This Section defines "conditionally exempt" small quantity

generators. Paragraph (g) specifies the conditions for exemption of a small quantity generator under 100 kg per month.

Section 721.131

This Section is drawn from 40 CFR 261.31, which was amended at 51 Fed. Reg. 6541. It was also recently amended in R86-1.

The amendments add to the solvent listings F002 and F005. 1,1,2-trichloroethane has been added for F002, and benzene, 2-ethoxyethanol and 2-nitropropane have been added to F005.

Section 721.132

This Section is drawn from 40 CFR 261.32, which was amended at 51 Fed. Reg. 5330. It was also recently amended in R86-1.

The amendments add generic wastes K117, K118 and K136. These are wastes from the production of ethylene dibromide.

Section 721.133

This Section is drawn from 40 CFR 261.33, which was amended at 51 Fed. Reg. 6541 and 10174. It was also recently amended in R86-1.

The amendments derived from 51 Fed. Reg. 6541 identify 2-nitropropane as toxic as well as flammable, and add listing U359, 2-ethoxyethanol, to the list of toxic wastes.

The amendments derived from 51 Fed. Reg. 10174 change the introductory language to Section 721.133(f) to reference the revised small quantity generator exclusion rule of Section 721.105(a) and (g).

Section 721.Appendix C

This Section is drawn from 40 CFR 261, Appendix III, which was amended at 51 Fed. Reg. 5330 and 6541. It was also recently amended in R86-1. The amendments specify analytical techniques for ethylene dibromide, 2-ethoxyethanol and 2-nitropropane. The Board proposes to update the incorporation by reference of this table.

Section 721.Appendix G

This Section is drawn from 40 CFR 261, Appendix VII, which was amended at 51 Fed. Reg. 5330 and 6541. It was also recently amended in R86-1.

The amendments derived from 51 Fed. Reg. 5330 list ethylene dibromide as the constituent which caused K117, K118 and K136 to be listed. The amendments to 51 Fed. Reg. 6541 identify 1,1,2-trichloroethane as a constituent which caused F002 to be listed,

and 2-ethoxyethanol, benzene and 2-nitropropane as constituents which caused F005 to be listed.

Section 721. Appendix H

This Section is drawn from 40 CFR 261, Appendix VIII, which was amended at 51 Fed. Reg. 6541. It was also recently amended in R86-1. The amendments add 2-ethoxyethanol and 2-nitropropane to the list of hazardous constituents.

Section 722.120

This Section is drawn from 40 CFR 262.20, which was amended at 51 Fed. Reg. 10174. This Section creates an exemption from the manifest requirements for small quantity generators above 100 kg per month which have a contract with a reclaimer which specifies the type and frequency of shipments, and that requires such information to be displayed on the recycler's vehicles. The generator is required to maintain a copy of the reclamation agreement for at least three years after its expiration. This is similar to the "Safety-Kleen" exemption from the Part 809 manifest requirement (127 Ill. App. 3d 446, 468 N.E. 2d 1339 (3rd Dist. 1984).)

Section 722.134

This Section is drawn from 40 CFR 262.34, which was amended at 51 Fed. Reg. 10174. Paragraphs (d), (e) and (f) add accumulation times applicable to small quantity generators over 100 kg per month.

The small quantity generator is allowed to accumulate hazardous waste for up to 180 days, provided the total never exceeds 6000 kg. The generator has to comply with the usual storage, dating and labeling requirements for the accumulated waste, except that the small quantity generator must follow certain specified emergency procedures, instead of having to prepare a plan pursuant to Part 725. The small quantity generator has to name an emergency coordinator, train employees and take certain actions in the event of a spill or fire.

Paragraph (e) allows the small quantity generator to accumulate waste for up to 270 days if the generator has to transport the waste more than 200 miles for off-site management. The same quantity limits and requirements apply to such a generator.

Paragraph (f) provides that the small quantity generator which exceeds the accumulation amounts or times is subject to the RCRA hazardous waste management permit requirements. However, the Agency may extend the time limitations for up to 30 days "due to unforeseen, temporary and uncontrollable circumstances."

Section 722.144

This new Section is drawn from 40 CFR 262.44, which was amended at 51 Fed. Reg. 10174. The small quantity generator above 100 kg per month is exempt from recordkeeping and reporting requirements except as specifically provided. The small quantity generator above 100 kg per month must keep records concerning accumulation times and quantities in the preceding Section. Such generators must also keep copies of manifests and test results as specified in Section 722.140, and retain records for longer periods if instructed to do so.

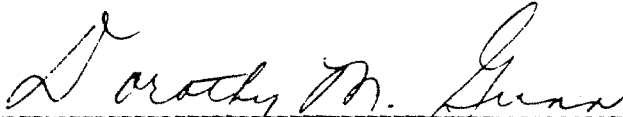
Section 723.120

This Section is drawn from 40 CFR 263.20, which was amended at 51 Fed. Reg. 10174. This Section complements Section 722.120(e). It exempts a recycler from the transporter requirements when the recycler is carrying waste from a small quantity generator above 100 kg per month pursuant to a reclamation agreement. The recycler has to carry a shipping paper with the manifest information on it, and retain records for at least three years.

This Proposed Opinion supports the Board's proposal for public comment of this same day.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Proposed Opinion was adopted on the 11th day of July, 1986, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board