

ILLINOIS POLLUTION CONTROL BOARD
April 14, 2025

IN THE MATTER OF:)
)
STANDARDS FOR THE PLACEMENT OF) R 25-21
LIMESTONE RESIDUAL MATERIALS:) (Rulemaking – Land)
PROPOSED NEW 35 ILL. ADM. CODE 706)

HEARING OFFICER ORDER

On February 4, 2025, the City of Aurora (City) and Holcim – ACM Management, Inc. (Holcim) (collectively, proponents) filed a rulemaking proposal for a new Part 706 of the Board’s waste disposal rules. On February 20, 2025, the Board accepted proponents’ proposal and directed the hearing officer to schedule and proceed to hearing. The hearing officer scheduled the first hearing for Thursday, April 17, 2025, with the deadline to pre-file testimony by Wednesday, April 3, 2025. On that date, proponents pre-filed the testimony of Alex Alexandrou, Robert Leible, and Randi Wille.

The Board and its staff have reviewed the proponents’ pre-filed testimony and submit with this order their questions, included as Attachment A. Anyone may respond to the attached questions, as well as any other pre-filed questions in the record.

All filings in this proceeding will be available on the Board’s website at <https://pcb.illinois.gov/> in the rulemaking docket R25-21. Unless the Board, hearing officer, Clerk, or procedural rules provide otherwise, all documents in this proceeding must be filed electronically through the Clerk's Office On-Line. 35 Ill. Adm. Code 101.302(h), 101.1000(c), 101.Subpart J.

IT IS SO ORDERED.



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ATTACHMENT A
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General Questions

1. On page 1 of the Statement of Reasons (SOR), the proponents state, “City and Holcim submit this Proposal to create a regulatory mechanism whereby Holcim can be authorized to permanently place the LRM generated at the WTP in the portion of the Conco underground mine that is owned by and located in the City of Aurora.” Please submit a map showing Conco underground mine site and the extent of the mine located within the City of Aurora limits. Also, identify the specific location where the LRM will be placed under the proposed rules.
2. On page 2, the SOR states that the proposed regulations allow for the permanent placement of LRM into certain authorized facilities.
 - a. Given the proposed rules have statewide applicability, how many underground limestone mining facilities are currently operating in Illinois?
 - b. How many of these facilities other than Conco mines are currently accepting LRM for permanent placement or plan to accept LRM in the future?
3. On page 15, SOR states that “only those municipalities seeking to place LRM materials in an authorized mine in that municipality ... would be subject to the regulations contained within the Proposal.”
 - a. Please clarify whether the proposed rules apply to LRM generated by a municipality that is placed in facilities within the same municipality.
 - b. If so, comment on whether the purpose and scope of the proposed rules under Section 706.100 reflect the above intent. If not, propose appropriate revisions to Section 706.100.

Alex Alexandrou

4. On page 2, you state, “Under normal operating conditions, blowdowns occur every three hours for a duration of approximately three minutes, generating roughly 800 gallons of LRM per minute.”
 - a. Please clarify whether the plant operates 24 hours per day all through the year.
 - b. Does the LRM generation rate of 800 gallons per minute represents all five Claricone tanks?
5. On page 2, you state that the City disposes approximately 35,000 tons of LRM either by land application or at a municipal waste landfill with an annual cost exceeding \$1 million.
 - a. Please clarify whether the annual cost includes cost of landfilling, land application and transportation of LRM.

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- b. If so, provide a breakdown of the annual cost of landfilling, land application and transportation.
6. On pages 2-3, you state that the estimated cost savings for mine placement versus traditional disposal methods was projected at approximately \$45 million over a 30-year period.
 - a. Please clarify whether traditional disposal methods refer to the currently practiced methods of landfilling and land application.
 - b. If so, explain how the cost savings was estimated given the annual cost of current disposal methods is in the range of 1 million.

Robert Lieble

7. On page 3, you summarize that the LRM was originally calcium carbonate in its natural state and returns to calcium carbonate as a drinking water treatment solid by-product. Please explain what you mean “LRM was originally in its natural state”.
8. On Page 3, you state that that approximately 80-85% of the annually generated LRM (35,000 tons) is land applied under a permit issued by the Agency.
 - a. Please clarify whether the City land applies LRM on its own land or provides LRM to offsite landowners for application.
 - b. If LRM is land applied off site, does the City provide LRM free of charge or for a fee?
9. On page 3, you state that land application of LRM is the lowest cost option available to WPD.
 - a. Please comment on the cost incurred by the City to land apply 80-85% of LRM generated annually.
 - b. Also, comment on the annual cost incurred by the City for landfilling 15-20% of LRM generated annually.
10. On page 3, you note that semi-annual reports showing the quantities of LRM either land applied or landfilled are submitted to IEPA. Please submit the reports from the most recent two years into the record.
11. You also note that reports are submitted to IEPA and the Illinois Emergency Management Agency showing all data for each individual land application site. Please submit these reports from the most recent two years into the record.

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12. On page 3, you state while land application of LRM is the lowest cost option available to the WPD at present, landfilling is used when conditions prevent the ability to land apply LRM.
 - a. Please describe the conditions that may prevent land application.
 - b. If winter conditions prevent land application, is LRM generated during winter months stored in WPD's lagoons or sent to landfill?
13. On page 4, you state that WPD's LRM has undergone extensive testing including Toxicity Characteristic Leaching Procedure ("TCLP") and Class I Groundwater Standard evaluations that consistently confirms that LRM meets or exceeds all applicable safety thresholds.
 - a. Please submit most recent TCLP testing results as well as groundwater standard evaluation into the record.
 - b. Please comment on whether LRM has been tested for any additional contaminants other than TCLP constituents. If so, submit results of such testing.
 - c. Also, comment on whether the detection limits for each constituent analyzed are specified in the test methods.

Randi Wille

14. In the Statement of Reasons and prefiled testimony, Holcim's operation has been referred to as "Conco Underground site", Conco Underground Mine Reclamation Site," "underground limestone mine," and "site". Please clarify whether these terms mean the same and are interchangeable.
15. On page 4, you state "Holcim plans to fill multiple rooms at the same time, likely in five-foot lifts, which will help the material to dry out quicker by leaving more of it exposed to the atmosphere". Further, you note that each fully mined-out room where LRM will be placed measures 50 feet by 50 feet. PFT at 3.
 - a. What would be the height of the mined rooms where LRM will be placed?
 - b. How many rooms would be needed to accommodate LRM generated in a year (35,000 tons) if LRM is placed in five-foot lifts?
 - c. Do you expect moisture content of LRM to decrease due to drying in an environment not exposed to sunlight or will the reduction be mainly due to drainage?
 - d. Is the mine currently pumped to remove groundwater infiltration? If so, where is the water discharged, and what are the discharge limits?

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- e. Do you believe there is a need for any groundwater monitoring or leachate/standing water run-off monitoring? If so, how do you plan for collection of groundwater or leachate/water samples?
16. On page 3, you explain the repository process for placement of LRM in the mine.
- a. Please comment on whether the cover on the drop shaft would involve a permanent roofed structure over the drop shaft.
 - b. Also, submit any engineering plans or drawings that show the designated haul route, location of the drop shaft, the mined rooms designated for placement of LRM, any barrier wall dividers, and any below-ground conveyance to the repository.
17. On page 4, you state, “All loads will be sealed during transport to prevent spillage and delivery routes will minimize residential traffic exposure.”
- a. Please comment on how many truckloads of LRM will be transported from the treatment plant to Conco mine on a daily, weekly, and monthly basis.
 - b. Comment on whether the City or Holcim has selected a delivery route to minimize residential exposure. If so, please submit a map showing potential delivery route. Also comment on whether the potential delivery route passes through Environmental Justice areas.
 - c. Do you anticipate community concerns on traffic/dust/noise regarding the delivery trucks?

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Questions on the Proposed Rule language

1. Should Section 706.100(a) specify that the requirements of Part 706 apply only to the placement of LRM in underground limestone mines? If so, please revise the language to reflect the proposed intent. If not, comment on whether the proposed rules apply to placement of LRM in any other setting.
2. Under proposed Section 706.140(a), please identify:
 - a. All persons who may appeal to the Board “[a]ny final Agency decision on an application for authorization made pursuant to this Part.”
 - b. All persons who may appeal to the Board “any final Agency decision made as to modification or revocation of an issued authorization made pursuant to this Part.”
3. Section 41(a) of the Environmental Protection Act states that review of a final Board decision “shall be afforded directly in the Appellate Court for the District in which the cause of action arose and not in the Circuit Court.” 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.906(a). Given this statutory language, please explain why proposed Section 706.140(b) refers to “the circuit court” rather than “the appellate court”?
 - a. Given that Section 41(a) of the Act and Section 101.906(a) of the Board’s procedural rules address appeals of final Board decisions, the Board’s substantive regulations generally do not include provisions on appeals of final Board decisions. Accordingly, is proposed Section 706.140(b) necessary? If so, why is it necessary?
4. Please clarify whether Section 706.200(a) applies to any placement of LRM or to only permanent placement of LRM. Clarify the rules to reflect the proposed intent.
5. Please comment on whether it would be acceptable to the proponents if the phrase “Placement for permanent storage in the facility” in Section 706.200(b) is replaced with “Permanent placement of LRM in a facility” to avoid using the term “storage”. See also Section 706.300.
6. Proposed Section 706.320 provides that an application for authorization is complete “when the Agency receives an application form and any supplemental information that is completed to its satisfaction.” The required contents for the application form are addressed in proposed Section 706.340. Please comment on the merits of the following potential changes to the proposed rule text:
 - a. Changing the second sentence of proposed Section 706.320 to read: “An application for authorization under this Part is complete when the Agency receives an application form that contains the and any supplemental information required by Section 706.340 that is completed to its satisfaction.”

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- b. Adding a new subsection (i) to proposed Section 706.340: “i) Any other information requested by the Agency that is relevant to the operation of the facility.”
7. In Section 706.330, please provide a minimum time in days (30, 60 or 180 days) for submission of an application for authorization before permanent placement of LRM is expected to begin instead of “within a reasonable time”.
8. Section 706.340 requires an application for authorization for placement of LRM to be submitted using the application form provided by the Agency.
 - a. Please submit any draft application form for authorization prepared by the Agency.
 - b. If a draft form is not available, would it be possible to have a draft form available for Board review before the proposed rules are adopted to second notice?
 - c. Also, comment on whether the authorization application form should be included as an appendix to the proposed rules.
9. In Section 706.340(a), given the application must be submitted before LRM is placed in the facility, please clarify whether the information refers to the activities that an operator plans to conduct at the facility and not activities that are already being conducted at the facility that require authorization. If necessary, provide appropriate language changes that clarify the intent.
10. Please comment on whether the facility map required under Section 706.340(d) should include location of any regulated recharge areas delineated by the Board under Section 17.4 of the Act, and Class III groundwater under 35 Ill. Adm. Code 620 within 1000 meters (3,300 feet) of the facility boundary.
11. Section 706.340(g) requires an applicant to provide a list with the names and addresses for all owners of record of land within one-quarter mile (402 meters) of the facility boundary and allows the Agency to waive this requirement if the facility is in a populous area.
 - a. Please explain the purpose of this provision.
 - b. Clarify why this requirement may not be applicable in populous areas.
 - c. What would be considered as a populous area in the context of an LRM authorization?
12. Please comment on whether Section 706.340(h) should specify the type of analytical testing data by including a cross-reference to Section 706.470, which lists the annual testing requirements.

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13. In Section 706.480, please clarify the types of records and reports that are required to be maintained that are “necessary to determine whether the operator has acted or is acting in compliance with the Act and Board regulations.” Also, comment on whether the phrase “acted or is acting in compliance” could be replaced with “complied or is complying”.
14. In Section 706.500(a), please comment on reducing the time limit from 30 days to 7 or 14 days for reporting deviations from conditions in the facility’s authorization.
15. Please comment on whether the following reorganization of Section 706.500(b) is acceptable:
 - b) By March 1st of each year, the operator must submit an annual report, for the prior year, to the Agency. The annual report must include:
 - 1) the annual quantity of LRM, in wet tons, placed into the facility;
 - 2) the results of chemical analyses required by the authorization;
 - 3) a summary of the number of loads of LRM accepted and the number of loads rejected during the calendar year; and
 - 4) the annual facility map required under Section 706.710.
16. Please clarify whether the facts or information under Section 706.500(d) would be submitted for Agency’s approval as an application for modification of the authorization under Section 706.610.
17. Section 706.510 requires the authorization to establish requirements necessary to ensure that the LRM does not migrate into any Underground Sources of Drinking Water (USDW). Please provide some examples of the requirements that the Agency must establish in the authorization to meet this operating requirement.
18. Please explain the rationale for not limiting the duration of authorization under Section 706.520.
19. Section 706.530 specifies provisions for cessation of placement of LRM.
 - a. Please comment on whether the notice of cessation under subsection (b) should be given within a specified time limit like within 14 days of cessation of placement of LRM at the facility.
 - b. Also, in subsection (b), clarify what “a description of the operator’s future use or abandonment of the conveyance” means.

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20. The financial responsibility provision under Section 706.540(a) requires an operator to demonstrate and maintain financial responsibility and resources to cease the underground placement of LRM in the facility in a manner prescribed by the Agency.
 - a. Please comment on whether the proposed rules under Section 706.540 should specify the manner in which financial responsibility must be maintained by the operator, i.e., a trust agreement, a surety bond, or an irrevocable letter of credit.
 - b. Please comment on whether the rules should require the operator to submit an initial cost estimate for cessation of LRM placement at the facility in the application for authorization under Section 706.340 and then require the operator to update that cost estimate on an annual basis under Section 706.540(b).
 - c. Under Section 706.540(b), please clarify what would constitute as “other adequate assurance” and “other materials” acceptable to the Agency.

21. Section 706.610 specifies the provisions for modification of authorization.
 - a. Please clarify whether a request for modification must be submitted using the Agency’s authorization application form or would it be a written request.
 - b. Should the rules specify a time limit by which the Agency must act on a request for modification? If so, please specify.
 - c. In Section 706.610(b), comment on what the phrase “is consistent with this Part” means in the context of a modification of authorization. Would it be acceptable to the proponents if that phrase is replaced by “complies with this Part”.

22. Proposed Section 706.610 describes only one scenario for modifying an authorization, i.e., the operator submits a modification request to IEPA, which requested modification IEPA must approve if it “is consistent with this Part, including, but not limited to, a transfer of an authorization to a new operator.” Other than the transfer of an authorization to a new operator, please describe grounds for operator-requested modifications that may be consistent with Part 706.
 - a. Also, if a modification of an authorization is not initiated by the operator, please describe:
 - i. The grounds, if any, on which IEPA may initiate a modification to the authorization.
 - ii. The procedure that IEPA must use to modify the authorization.

23. What does proposed Part 706 require of an operator before the operator may transfer its authorization to a new operator?

24. In Section 706.620, please clarify what “regulated to acceptable levels” mean in the context of endangerment of human health or the environment.

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25. Proposed Section 706.620 provides that IEPA “may seek revocation of an authorization” but does not specify what procedure IEPA must use to seek revocation. In contrast, the Board’s UIC permit program regulations (35 Ill. Adm. Code 704) include provisions on revocation that cross-reference Section 702.186 (35 Ill. Adm. Code 702.186). *See* 35 Ill. Adm. Code 704.122(b) (“the permit may be subject to revocation under 35 Ill. Adm. Code 702.186 if cause exists”); 35 Ill. Adm. Code 704.162(d) (“the Agency may . . . seek revocation under 35 Ill. Adm. Code 702.186”). Section 702.186 specifies when the Board will revoke a permit under Title VIII of the Environmental Protection Act, which concerns enforcement. Please describe the procedures IEPA must follow under proposed Section 706.620 to seek revocation of an authorization.
26. Proposed Section 706.620 lists only one ground on which IEPA may seek revocation: “if it determines that the permanent placement of LRM in the facility endangers human health or the environment and can only be regulated to acceptable levels by authorization modification, reissuance, or revocation.” This ground generally corresponds to subsection (d) of Section 702.186 (35 Ill. Adm. Code 702.186(d)). But subsections (a), (b), and (c) of Section 702.186 provide three additional grounds for revocation:
- a) The permittee’s violation of the Environmental Protection Act or regulations adopted thereunder;
 - b) Noncompliance by the permittee with any condition of the permit;
 - c) The permittee’s failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee’s misrepresentation of any relevant facts at any time;

35 Ill. Adm. Code 702.186(a), (b), (c).

Should grounds generally corresponding to Section 702.186(a), (b), and (c) be added to proposed Section 706.620? If not, why not?

27. In Section 706.700, please provide citations to the applicable mining regulations. Please comment on whether the Agency as a part of its review will ensure that the facility design complies with applicable mining regulations. If not, should the operator certify that the facility design complies with the applicable mining regulations.
28. Sections 706.720 (b) and (c) cast a wide net by using the phrase “in conformance with the provisions of the Act and the regulations adopted under the Act”. Would it be acceptable if that phrase is replaced with “in compliance with the requirements of this Part”? If not, please provide citations to applicable laws and regulations.
29. Section 706.720(e) specifies annual sampling and analysis requirements for LRM.

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- a. Please comment on whether USEPA/USDOE radiochemical method GA-01-R specified in Section 706.720(e)(1) for analysis of Radium 226 and Radium 228 should be incorporated by reference. If so, please provide full citation of that analytical method.
 - b. Comment on whether the analytical results should be submitted to the Agency in the annual report under Section 706.500.
 - c. Please comment on the rationale for submitting radium analytical results to the Illinois Emergency Management Agency.
 - d. Comment of whether the sampling and analysis provisions under subsection 706.720(e) should be moved under annual testing at Section 706.470.
30. In Section 706.720(g), please comment whether it would be appropriate to require the availability of backup power or generators during outages.
31. Section 706.720(h) requires the operation of backups, auxiliary facilities, or similar systems used only when necessary to achieve compliance with the condition of the permit. Please clarify whether “permit” should be replaced with “authorization”. If not, please explain the proposed intent.
32. Please explain the purpose of the visual inspection required under Section 706.720(n), i.e., what is the operator looking for when conducting the visual inspection. Also, comment on the frequency of performing the visual inspection.
33. If material other than LRM is found in the delivery of loads of LRM, Section 706.730 requires the operator to reject the load and ensure the proper disposal of the material.
- a. Please clarify whether “proper disposal” means disposal in permitted landfill. If not, explain the proposed intent.
 - b. Also, comment on whether the operator of the facility or the generator of LRM is responsible for disposal of the rejected load.