

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
RCRA SUBTITLE C UPDATE, USEPA) R19-3
AMENDMENTS (January 1, 2018 through) (Identical-in-Substance Rulemaking-
June 30, 2018)) Land)

NOTICE OF FILING

TO: See attached Certificate of Service.

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board ILLINOIS EPA'S COMMENTS, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall
Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
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DATED: September 28, 2018

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ILLINOIS EPA'S COMMENTS

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA” or “Agency”), by and through its counsel, and pursuant to the Illinois Pollution Control Board (“Board”) Proposal for Public Comment (“Proposal”) dated July 26, 2018, submits the following comments in the above captioned rulemaking.

I. Responses to Requests for Comments

Illinois EPA’s responses to the Board’s questions beginning at Proposal page 13 are set forth below. For all questions omitted, Illinois EPA has no comment at this time.

1. Does changing “a non-RCRA waste that a state regulates more broadly” to “USEPA has not designated hazardous waste but which a state more broadly regulates to require use of a manifest (USEPA Form 8700-22)” in 35 Ill. Adm. Code 720.105(a)(1) clarify the rule and comport with USEPA’s intent?

Agency Response: No. The proposed language is overly broad and could impact wastes that are manifested independently of the Uniform Hazardous Waste system. Instead, Illinois EPA would propose the following: “a non-RCRA waste that a state regulates more broadly and that requires the use of a Uniform Hazardous Waste Manifest.”

2. Does changing “a RCRA hazardous waste” to “a waste that USEPA has designated hazardous waste” in 35 Ill. Adm. Code 720.105(a)(2) clarify the rule and comport with USEPA’s intent?

Agency Response: This wording is potentially confusing because it could be read as requiring USEPA to affirmatively designate specific waste streams as hazardous. Hazardous waste characterizations are a function of RCRA, not a USEPA designation. Thus, "RCRA hazardous waste" seems more appropriate.

3. Does changing "RCRA manifest" to the defined term "manifest" in 35 Ill. Adm. Code 720.105(b) and adding a reference to the definition in 35 Ill. Adm. Code 720.110 clarify the rule and comport with USEPA's intent?

Agency Response: No. Illinois EPA's preference is to maintain the designation "RCRA manifest" in this context because Illinois EPA plans to propose amendments to 35 Ill. Adm. Code Part 809 in the near future. Said forthcoming amendments will be designed to distinguish when an Illinois "Non-Hazardous Special Waste Manifest" should be utilized instead of the USEPA's Uniform Hazardous Waste Manifest.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall
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DATED: September 28, 2018

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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, affirm that I have served the attached ILLINOIS EPA'S COMMENTS, on behalf of the Illinois EPA, upon the following person(s) by e-mailing it to the e-mail address(es) indicated below or, if no e-mail address is provided, by placing a true copy, in an envelope duly addressed and bearing proper first class postage, in the United States mail at Springfield, Illinois on September 28, 2018:

TO:

Illinois Pollution Control Board
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I affirm that my e-mail address is gabriel.neibergall@illinois.gov; the number of pages in the e-mail transmission is 5; and the e-mail transmission took place today before 4:30 PM. If you prefer service by mail, please contact me and a copy will be mailed to you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall
Gabriel H. Neibergall
Assistant Counsel
Division of Legal Counsel
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