**Section 703.305 Operating Under a RAP**

a) The records an owner or operator must maintain concerning its RAP. An owner or operator is required to keep records of the following:

1) All data used to complete RAP applications and any supplemental information that an owner or operator submits for a period of at least three years from the date the application is signed; and

2) Any operating or other records the Agency requires an owner or operator to maintain as a condition of the RAP.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.210 (2002).

b) How time periods in the requirements in Subpart H of this Part and the RAP are computed.

1) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event. (For example, if a RAP specifies that the owner or operator must close a staging pile within 180 days after the operating term for that staging pile expires, and the operating term expires on June 1, then June 2 counts as day one of the 180 days, and the owner or operator would have to complete closure by November 28.)

2) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event. (For example, if an owner or operator is transferring ownership or operational control of its site, and the owner or operator wishes to transfer its RAP, the new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change. Therefore, if an owner or operator plans to change ownership on January 1, the new owner or operator must submit the revised RAP application no later than October 3, so that the 90th day would be December 31.)

3) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day. (For example, if an owner or operator wishes to appeal the Agency's decision to modify its RAP, then an owner or operator must petition the Board within 35 days after the Agency has issued the final RAP decision. If the 35th day falls on Sunday, then the owner or operator may submit its appeal by the Monday after. If the 35th day falls on July 4th, then the owner or operator may submit its appeal by July 5th.)

4) Whenever a party or interested person has the right to or is required to act within a prescribed period after the service of notice or other paper upon him by mail, four days may not be added to the prescribed term. (For example, if an owner or operator wishes to appeal the Agency's decision to modify its RAP, then the owner or operator must petition the Board within 35 days after the Agency has issued the final RAP decision.)

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.215 (2002). Federal subsections (c) and (d) 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 [415 ILCS 5/40(a)(1)]. Further, federal subsection (d) provides three days for completion of service by mail. The addition of four days (see procedural rule 35 Ill. Adm. Code 101.144(c)) to be consistent with 40 CFR 270.215(d) would exceed the 35 days allowed under Section 40(a)(1) of the Act [415 ILCS 5/40(a)(1)].

c) How an owner or operator may transfer its RAP to a new owner or operator.

1) If an owner or operator wishes to transfer its RAP to a new owner or operator, the owner or operator must follow the requirements specified in its RAP for RAP modification to identify the new owner or operator, and incorporate any other necessary requirements. These modifications do not constitute "significant" modifications for purposes of Section 703.304(a). The new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change along with a written agreement containing a specific date for transfer of RAP responsibility between the owner or operator and the new permittees.

2) When a transfer of ownership or operational control occurs, the old owner or operator must comply with the applicable requirements in Subpart H of 35 Ill. Adm. Code 724 (Financial Requirements) until the new owner or operator has demonstrated that it is complying with the requirements in that Subpart. The new owner or operator must demonstrate compliance with Subpart H of 35 Ill. Adm. Code 724 within six months after the date of the change in ownership or operational control of the facility or remediation waste management site. When the new owner or operator demonstrates compliance with Subpart H of 35 Ill. Adm. Code 724 to the Agency, the Agency must notify the former owner or operator that it no longer needs to comply with Subpart H of 35 Ill. Adm. Code 724 as of the date of demonstration.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.220 (2002).

d) What the Agency must report about noncompliance with RAPs. The Agency must report noncompliance with RAPs according to the provisions of 40 CFR 270.5 (Noncompliance and Program Reporting by the Director), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.225 (2005).

(Source: Amended at 30 Ill. Reg. 2845, effective February 23, 2006)