**Section 702.106 Adoption of Agency Criteria**

a) The Agency may, in its sole discretion, adopt criteria that will give guidance to the public as to what it will approve in RCRA and UIC permit applications and as to what conditions it will impose in permit issuance. The statutory authority for the Agency adopting such criteria is the Agency's authority to issue permits pursuant to Sections 4 and 39 of the Act, and the requirement of the Administrative Procedure Act [5 ILCS 100] that agencies codify as rules those policies or interpretations of general applicability that affect persons outside the Agency.

b) With respect to review of permit applications and establishment of permit conditions, the Agency must adopt as criteria any policies and interpretations of general applicability that affect persons outside the Agency.

c) Any criteria that the Agency adopts must include each of the following:

1) Clear references to related provisions of the Act and Board regulations;

2) A statement that the criteria are not Board regulations;

3) A statement that the criteria apply only to review of permit applications and establishment of conditions; and

4) Procedures to be followed if an applicant wishes to deviate from Agency criteria.

d) For purposes of permit issuance, proof of compliance with Agency-adopted criteria is prima facie proof of compliance with related provisions of the appropriate Act and Board regulations. However, persons other than the Agency may challenge Agency-adopted criteria as applied in the context of permit issuance.

(Source: Amended at 42 Ill. Reg. 20953, effective November 19, 2018)