

ILLINOIS POLLUTION CONTROL BOARD

October 7, 2010

IN THE MATTER OF:)	
RCRA SUBTITLE C UPDATE, USEPA)	R09-16
AMENDMENTS (July 1, 2008 through)	(Identical-in-Substance
December 31, 2008 and June 15, 2010))	Rulemaking - Land)
)	
RCRA SUBTITLE C UPDATE, USEPA)	R10-4
REGULATIONS (January 1, 2009 through)	(Identical-in-Substance Rulemaking -
June 30, 2009))	Land)
)	(Consolidated)

Adopted Rule. Final Order.

OPINION OF THE BOARD (by G.T. Girard):

SUMMARY OF TODAY'S ACTION

This consolidated identical-in-substance rulemaking updates the Illinois hazardous waste regulations to incorporate revisions to the federal regulations. The United States Environmental Protection Agency (USEPA) adopted the federal hazardous waste amendments that prompted this action during the time periods of July 1, 2008 through December 31, 2008 and January 1, 2009 through June 30, 2009. This proceeding adopts amendments to 35 Ill. Adm. Code 703, 720, 721, 722, 724, and 725. This proceeding also makes a series of substantive and non-substantive corrections and stylistic revisions to segments of the text that are not otherwise affected by the covered federal amendments.

This opinion and the related order adopt identical-in-substance amendments in the hazardous waste program area. Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2008)) require the Board to adopt regulations that are "identical in substance" to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2006)). The federal RCRA Subtitle C hazardous waste management (HWM) regulations are found at 40 C.F.R. 260 through 268, 270 through 273, and 279.

Section 22.4(a) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2008)) do not apply to the Board's adoption of identical-in-substance regulations.

This opinion supports an order that the Board also adopts today. The Board will cause the filing of the adopted amendments with the Office of the Secretary of State to be published in the *Illinois Register* after holding the docket open for 30 days to receive any comments on the adopted rules by USEPA. The Board presently intends to complete all work on these amendments and file them on or before November 15, 2010.

**Abbreviated Discussions in this Opinion and
Referral to the June 17, 2010 Opinion for Detailed Discussions**

The Board adopted a proposal for public comment in this matter on June 17, 2010. The opinion accompanying the June 17, 2010 proposal for public comment included a detailed description of the federal actions underlying the proposal. That opinion also included extensive discussion of the many issues involved with incorporating the federal requirements into the Illinois regulations. Breaking with the Board's usual practice of repeating the substantive discussion of the issues in the opinion accompanying adoption of the amendments, the following discussions omit nearly all of the material from the opinion accompanying the proposal. Instead, the Board refers interested persons to review the June 17, 2010 opinion for discussions of the federal actions and the issues relating to them. This opinion only includes a brief outline of the underlying federal actions involved, and the following discussions focus only on the comments received relative to each set of federal amendments and the changes made by the Board in response to those comments.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

The following table briefly summarizes the federal actions considered in this RCRA Subtitle C update rulemaking:

October 30, 2008 (73 Fed. Reg. 64668)	Adoption of amendments to the Definition of Solid Waste Rule (DSWR): (1) exclusion of hazardous secondary materials (HSMs) that are the subject of "legitimate reclamation" from the definition of solid waste; (2) addition of a procedure for an administrative "non-waste" determination for HSMs that are used like a product or intermediate in a continuous industrial process; and (3) addition of financial assurance requirements applicable to entities other than the generator that manage HSMs.
December 1, 2008 (73 Fed. Reg. 64668)	Adoption of optional alternative hazardous waste generator requirements applicable to "eligible academic entities" (college and university laboratories and other facilities affiliated with colleges and universities).
December 19, 2008 (73 Fed. Reg. 77954)	Addition of "emission-comparable fuel" (ECF) to the existing "comparable fuels" exclusion from the definition of solid waste, including ancillary amendments.
June 25, 2009 (74 Fed. Reg. 30228)	USEPA amended references to reflect the change in name of the "Office of Solid Waste" to its new name, "Office of Resource Conservation and Recovery."
June 15, 2010 (75 Fed. Reg. 33712)	USEPA withdrew the December 19, 2008 ECF rule amendments from the excluded fuels rule. The corrective and clarifying amendments of December 19, 2008 were unaffected.

A more detailed outline of the federal actions involved in this proceeding appears at pages 2 through 8 of the Board's opinion in RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16, RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (consolidated) (June 17, 2010).

PUBLIC COMMENTS

The Board adopted a proposal for public comment in this matter on June 17, 2010. Notices of Proposed Amendments in this matter appeared in the *Illinois Register* on August 6, 2010, at 34 Ill. Reg. 10991 (Part 703), 11021 (Part 720), 11096 (Part 721), 11298 (Part 722), 11354 (Part 724), and 11368 (Part 725). The Board received public comments on this proposal for 45 days following that date of publication, until September 20, 2010.

The Board will delay filing adopted rules with the Secretary of State for 30 days after adoption, particularly to allow additional time for USEPA to review the adopted amendments before they are filed and become effective. If USEPA expressly waives this 30-day review period in writing, the Board could file the adopted amendments prior to expiration of the 30-day period. As previously stated, the Board presently intends to complete all work on these amendments no later than November 15, 2010.

Prior to adoption of the proposal for public comment in this matter, the Board received two public comments from USEPA. Both are e-mail exchanges between USEPA and Board staff wherein Board staff sought clarification of aspects of the USEPA amendments included in the docket. The comments are described as follows:

- PC 1 December 18, 2009 e-mail from Tracy Atagi, USEPA, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, in response to a December 17, 2009 e-mail from Michael J. McCambridge, Board hearing officer, to Marilyn Goode, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division. (Docketed December 21, 2009.)

- PC 2 March 18, 2010 e-mail from Mary Jackson, USEPA, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, in response to a March 17, 2010 e-mail from Michael J. McCambridge, Board hearing officer. (Docketed March 30, 2010.)

By PC 1, USEPA clarified certain points in response to questions from Board staff relative to the interplay between the 2008 DSWR amendments and recycling-related provisions of the existing hazardous waste regulations. By PC 2, USEPA indicated the current status of the December 9, 2009-proposed withdrawal of the Comparable-Emissions Fuel rule, which USEPA adopted on December 19, 2009. USEPA indicated that there were no comments on the proposal to withdraw the amendments, and that USEPA was trying to convince the Office of Management and Budget to waive the customary three-month review of the proposed amendments.

The Board received three additional comments after adoption of the proposal for public comment. Those comments are described as follows:

- PC 3 August 3, 2010 e-mail from Michael J. McCambridge, Board hearing officer, in response to a August 3, 2010 e-mail from Ed Paschal, CHMM, Custom Environmental Services, with copy and comments to Debra Connelly, Joint Committee on Administrative Rules. (Docketed August 4, 2010.)
- PC 4 August 19, 2010 e-mail from Michael J. McCambridge, Board hearing officer, in response to a telephone call from Gary Westefer, USEPA Region 5, Office of Resource Conservation and Recovery. (Docketed August 19, 2010.)
- PC 5 Comments of the Illinois Environmental Protection Agency filed September 20, 2010 e-mail from Stephanie Flowers, Illinois Environmental Protection Agency, Division of Legal Counsel. (Docketed September 20, 2010.)

All three of these comments highlighted errors or requested clarifications in segments of the rules. In PC 3, the Board hearing officer in this matter indicates possibilities for correcting a cross reference in 35 Ill. Adm. Code 721.106(c)(1) in response to a request for clarification of what regulations are intended. In PC 4, the hearing officer memorialized a series of questions and possible corrections verbally raised by USEPA Region 5 during a phone conversation. In PC 5, the Agency suggested a limited number of revisions to the text of the amendments as proposed.

In addition to the public comments received, the Board received comments from JCAR. JCAR submitted six additional documents (one for each Part of the rules under amendment in this docket) that suggest numerous stylistic and clarifying revisions to the text. JCAR routinely submits these documents to the Board for each rulemaking proposal after the Notice of Proposed Amendments appears in the *Illinois Register*. The Board carefully reviews these documents to determine the changes that JCAR has suggested for each proposal.

The Board has evaluated all of the comments received. The Board has incorporated many changes in the text of the rules in response to many of the comments. The Board has further added a small number of revisions based on its own post-proposal review of the text. Table 1 (which begins below at page 17) indicates the textual location, the source of the suggestion for change, and a brief description of the nature for all of the revisions that the Board has made since the June 17, 2010 proposal for public comment. Table 2 (which begins immediately after Table 1, at page 25) indicates suggested revisions that the Board has chosen not to make. The Table 2 listing of suggestions declined indicates the textual location relating to each suggested change, indication of the source and brief description of the suggested revision, and a brief explanation why the Board has chosen not to accept the suggestion.

Most of the revisions made by the Board are minor, and no expanded discussion of those revisions appears in this opinion. The same is true of most of the revisions and suggested

changes not made by the Board. A limited number of the revisions, however, do warrant further discussion. The segments of discussion that follow include expanded discussion of only a limited number of the revisions made and suggestions declined.

DISCUSSION

The following discussion supplements the detailed discussions that appeared in the opinion that accompanied the Board's June 17, 2010 proposal for public comment. Breaking with ordinary practice, the Board does not repeat and add to the discussions that accompanied the proposal in this instance. The June 17, 2010 opinion spanned about 400 pages, and repeating those discussions in this opinion would unnecessarily burden the regulated community with an extreme volume of paper and unduly strain State resources.

Amendment of the DSWR: Excluding HSMs That Are Reclaimed

On October 30, 2008 (73 Fed. Reg. 64668), USEPA adopted amendments to the definition of solid waste. The DSWR amendments exclude certain materials that are reclaimed from the definition of solid waste. USEPA explained that the DSWR amendments were in response to judicial decisions, and USEPA intended them to encourage resource conservation and recycling. The DSWR amendments added a definition of "hazardous secondary material" (HSM) to the hazardous waste regulations. HSM is material that undergoes reclamation but which would constitute hazardous waste if discarded. The DSWR amendments exclude specified HSMs from the definition of solid waste. The new exclusions are embodied in four self-implementing exclusions and a pair of exclusions that are available through an administrative determination.

A detailed discussion of the DSWR amendments appears at pages 12 through 237 of the Board's opinion in RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16, RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (consolidated) (June 17, 2010). The following discussion considers only the comments received in response to the Board's numerous specific requests for comments.

On pages 229 through 237 of the June 17, 2010 opinion, the Board made 38 specific requests for comments on the proposal for public comment relative the DSWR amendments. None of the comments received addressed any of those specific requests. For this reason, the Board incorporates the USEPA DSWR amendments into the Illinois regulations without substantive revisions from the June 17, 2010 proposal for public comment. The revisions made upon final adoption are limited to minor stylistic and corrective changes made in response to the comments received. Table 1 (which begins below at page 17) indicates revisions to the text that the Board has undertaken in response to the comments received. Table 2 (which begins immediately after Table 1, at page 25) indicates suggestions that the Board has chosen not to follow, including a brief explanation why the Board chose not to accept the suggestion.

Agency Comments on Aspects of the DSWR Amendments. The Agency commented on aspects of the DSWR amendments outside the scope of the Board’s specific requests for comments. The Agency requested that the Board add definitions for terms used by USEPA in the DSWR amendments.

Request for Definition of “Industrial Process.” The Agency commented in PC 5 with regard to use of the term “industrial process” as follows:

Section 720.130(d) includes the term “industrial process”. [sic] The [Agency] asks for this term to be defined. PC 5 at ¶ 2.

In response, the Board declines to add a definition of the term “industrial process.” The term “industrial process” must be given its ordinary meaning. The Agency’s comments neither suggest such a definition nor explain why the term cannot be allowed to take on the ordinary meanings of the words. Further, adding a definition without such a suggestion and without some guidance as to the deficiency of the ordinary meanings of the words could risk the Board expanding or limiting the term beyond USEPA’s intent.

The term “industrial process” is fundamental in the following provisions of the existing regulations and the DSWR, in the ways described:

Reference Location	Reference Context/Function
260.110 “industrial furnace”	As a segment of one of the factors for determining whether a device is an industrial furnace.
720.130(d) & 720.134(b)	As a segment of the designation of the hazardous secondary materials that are reclaimed in “a continuous industrial process” for which a non-waste determination may be sought.
720.143(b)(2)(B)	As a segment of the determination whether a material is a “valuable product” for the purposes of the “legitimacy rule.”
721.101(c)(5)	As a segment of the definition of “used or reused,” for the purpose of determining what secondary materials do not fall within the definition.
721.102(e)(1)(A)	As a segment of the definition of “hazardous waste” for the purpose of determining what recycled materials are excluded from the definition.
721.104(a)(20)(C)(iii) & (a)(20)(C)(iv)	As a segment of the description of the records that a manufacturer of zinc fertilizers must maintain.
721.104(b)(6)(A)(ii)	As a segment of the description of chromium wastes that are not hazardous waste.

Were the Board to devise a definition of the term “industrial process,” as requested by the Agency, that definition could affect the scope and applicability of these several, diverse provisions. The Board is reluctant to add a definition of a term without some indication of the deficiency or ambiguity in giving the words comprising the term their ordinary meanings.

The dangers of the Board deriving a definition of “industrial process” without the guidance of USEPA are illustrated by an example. The Board performed a quick search through various regulations and federal resources for a definition of “industrial process: without success. The Board then searched specific dictionary references on the Internet, also without success. The Board ultimately performed a search-engine-based search for “industrial process” and found only a description of the term at the Wikipedia website. That description is flawed and unsuitable for use in the context of the DSWR.¹ The definition does, however, illustrate the dangers of deriving a definition of the term “industrial process” without the benefit of a record. Wikipedia describes “industrial process” as follows:

Industrial processes are procedures involving chemical or mechanical steps to aid in the manufacture of an item or items, usually carried out on a very large scale. Industrial processes are the key components of heavy industry.

Most processes make the production of an otherwise rare material vastly cheaper in price, thus changing it into a commodity; i.e. the process makes it economically feasible for society to use the material on a large scales, in machinery, or a substantial amount of raw materials, in comparison to batch or craft processes. Production of a specific material may involve more than one type of process. Most industrial processes result in both a desired product(s) and by-products, many of which are toxic, hazardous, or hard to deal with. Very, very few processes are self-contained. Wikipedia contributors, “List of industrial processes,” *Wikipedia, The Free Encyclopedia*, http://en.wikipedia.org/w/index.php?title=List_of_industrial_processes&oldid=379100474 (accessed September 29, 2010) (underlining of hyperlinks omitted).

This description, if used as a definition, contrasts “batch or craft processes” from “industrial processes.” This would exclude small-scale production operations from inclusion as industrial processes. The description further states, “Industrial processes are the key components of heavy industry.” This could imply that light industry is somehow excluded. In the context of this proceeding, the Board notes that use of HSM in a “continuous industrial process” can make an administrative non-waste determination available for the material. 35 Ill. Adm. Code 720.130(d) and 720.134(b) (corresponding with 40 C.F.R. 260.30(d) and 260.34(b) (2009)). Further, one of the factors that must be considered under the “legitimacy rule” in determining whether a product or intermediate is “valuable” for the purpose of determining whether a particular mode of reclamation is “legitimate recycling.” 40 C.F.R. 720.143(b)(2)(B) (corresponding with 40 C.F.R. 260.43(b)(2)(B) (2009)).

¹ The Board does not encourage the use of Wikipedia as a cited authority. Articles posted on the Wikipedia website sometimes have ambiguous authorship and the quality of information in the articles is uneven. The Board would not normally cite to Wikipedia, except that here the quoted text is a good example of the dangers of deriving a definition without due deliberation and adequate support.

Segments of USEPA’s discussion of the DSWR amendments, on the other hand, indicate that batch processing is contemplated within the scope of the exclusions. *See* 73 Fed. Reg. 64668, 72, 709, 28 (Oct. 30, 2008). Since the legitimacy rule is applied to all four of the self-implementing exclusions for HSM and both of the exclusions available by an administrative “non-waste determination” (*see* 35 Ill. Adm. Code 720.134(b), 720.143(a), 721.102(a)(2)(B), and 721.104(a)(23)(E), (a)(24)(D), and (a)(25) (corresponding with 40 C.F.R. 260.34(b), 260.43(a), 261.2(a)(2)(ii), and 261.4(a)(23)(v), (a)(24)(iv), and (a)(25) (2009)), the “continuous industrial process” language (including the term “industrial process”) applies to all exclusions. This would include “batch or craft processes” as apparently excluded by the above-cited Wikipedia definition.

The Board declines to add a definition of “industrial process” based on the Agency’s comments in PC 5. The Agency has not convinced the Board that addition of such a definition is necessary or desirable, and the Board will not risk changing the scope or meaning of the federally derived rules without such need or utility to be gained from the addition.

Request for Definitions of “Product” and “Intermediate.” The Board responds similarly to the Agency’s request for definitions of “product” and “intermediate.” The Agency commented in PC 5 with regard to these terms as follows:

Section 720.130(e) includes the terms “product” and “intermediate”. [sic] The [Agency] asks for these terms to be defined. PC 5 at ¶ 3.

In response, the Board declines to add definitions of the terms “product” and “intermediate.” The terms “product” and “intermediate” must be given their ordinary meanings. The Agency’s comments neither suggest definitions nor explain why the terms cannot be allowed to take on the ordinary meanings of the words. Further, adding definitions without such a suggestion and without some guidance as to the deficiency of the ordinary meanings of the words could risk the Board expanding or limiting the terms beyond USEPA’s intent.

The terms “product” and “intermediate” generally appear as “product or intermediate” in the context of the DSWR amendments.² In the definition of “hazardous secondary material generated and reclaimed under the control of the generator” includes the term “product or intermediate” in the segment that defines “toll manufacturer.” 35 Ill. Adm. Code 720.110 (corresponding with 40 C.F.R. 260.10 (2009)). The term helps define the HSMs for which an administrative non-waste determination is available. 35 Ill. Adm. Code 720.130(e) and 720.134(c) (corresponding with 40 C.F.R. 260.30(e) and 260.34(c) (2009)). The term also enters into application of the “legitimacy rule.” 35 Ill. Adm. Code 720.143(b) (corresponding with 40

² Another important use of “intermediate” is in the defined term “intermediate facility.” *See, e.g.,* 35 Ill. Adm. Code 721.104(a)(24)(F) (corresponding with 40 C.F.R. 261.4(a)(24)(vi) (2009)). USEPA added a definition of “intermediate facility” with the DSWR amendments. *See* 35 Ill. Adm. Code 720.110 (corresponding with 40 C.F.R. 260.10 (2009)).

C.F.R. 260.43(b) (2009)). An altered meaning for either “product” or “intermediate” could significantly affect application of the DSWR amendments.

Request for Guidance on “Significant Concentrations.” The Agency requested in PC 5 guidance with regard to the meaning of the term “significant concentrations,” as follows:

Section 720.143(c)(2) contains the term “significant concentrations”. [sic] The [Agency] asks the Board to provide guidance on what would constitute “significant concentrations” of the hazardous constituents. PC 5 at ¶ 3.

In response, the Board can offer no further guidance as to what USEPA intended by “significant concentrations” than what USEPA has itself provided. The Board will here briefly recount that guidance.

The term “significant concentrations” appears in the context of the “legitimacy rule.” In contemplation of the legitimacy determination, the Board included the following specific requests for comment in the opinion that accompanied the June 17, 2010 proposal for public comment:

32. Is it true that if not in most instances, at least in a significant portion of instances, the constituents of value in HSM are not the only constituents that would render the HSM hazardous waste if discarded? Assuming an instance where this is true, are the “toxics along for the ride” (*see* 73 Fed. Reg. at 64704), rendering the reclamation not “legitimate recycling,” where the reclamation process extracts some constituents of value, and the hazardous constituents end up in the waste residues of the process (to be discarded as hazardous waste, if appropriate)? *I.e.*, is it permissible to consider treatment of the wastes produced by the reclamation process, or is the assumption that all constituents in the HSM end up in the product of reclamation required for consideration of the fate of hazardous constituents?
33. Where a significant amount of hazardous constituents end up in the product as a result of reclaiming HSM, rather than using an analogous raw material (process-based exclusion) or comparable product or intermediate (product-based exclusion), is it possible to support that the recycling is legitimate and that a non-waste determination should issue based on consideration of the impact of the hazardous constituents on human health and the environment? RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16, RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (consolidated) (June 17, 2010), slip op. at p. 236.

The Board believes that gaining insight into what USEPA means by “significant concentrations” will require three inquiries: (1) examination of the concentrations of concern in

the context of the particular HSM, the particular reclamation process, and the particular destinations for all elements introduced by the HSM to the process (*i.e.*, in the product, in any environmental emissions from the process, in the wastes produced by the process, by how the product is used or discarded, etc.); (2) examination of the regulatory context where the term “significant concentrations” is used; and (3) examination of anything that USEPA has said with regard to the meaning of the term.

The Board agrees that determining what constitutes “significant concentrations” could prove difficult. But the Board observes that the identical-in-substance mandate does not allow the Board to provide guidance that is not derived from USEPA regulatory guidance or discussions. The Board below examines aspects of the regulatory context and USEPA’s discussions that would bear in any determination using the term “significant concentrations.”

Initially, the regulatory context of the term “significant concentrations” indicates USEPA’s concerns when applying the term. The term appears in the following segment of the federal legitimacy rule:

(c) The following factors must be considered in making a determination as to the overall legitimacy of a specific recycling activity.

(1) The generator and the recycler should manage the hazardous secondary material as a valuable commodity. Where there is an analogous raw material, the hazardous secondary material should be managed, at a minimum, in a manner consistent with the management of the raw material. Where there is no analogous raw material, the hazardous secondary material should be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

(2) The product of the recycling process does not

(i) Contain **significant concentrations** of any hazardous constituents found in Appendix VIII of part 261 that are not found in analogous products; or

(ii) Contain concentrations of any hazardous constituents found in Appendix VIII of part 261 at levels that are significantly elevated from those found in analogous products; or

(iii) Exhibit a hazardous characteristic (as defined in part 261 subpart C) that analogous products do not exhibit.

(3) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these other considerations, one or both of the factors are not met, then this fact may be an indication that the material is not legitimately recycled.

However, the factors in this paragraph do not have to be met for the recycling to be considered legitimate. In evaluating the extent to which these factors are met and in determining whether a process that does not meet one or both of these factors is still legitimate, persons can consider the protectiveness of the storage methods, exposure from toxics in the product, the bioavailability of the toxics in the product, and other relevant considerations. 40 C.F.R. 260.43(c) (2009) (corresponding with 35 Ill. Adm. Code 720.143(c)) (emphasis added).

This segment presents, as one of a handful of non-binding considerations, whether HSM contains “significant concentrations” of hazardous constituents. That USEPA requires consideration of whether “significant concentrations” are present, but USEPA states that “the factors of this paragraph do not have to be met for the recycling to be considered legitimate.” 40 C.F.R. 260.43(c)(3) (2009) (corresponding with 35 Ill. Adm. Code 720.143(c)(3)). This allows making the legitimacy determination with flexible application of the various factors when “evaluat[ing] all factors and consider[ing] legitimacy as a whole.” *Id.* Thus, “legitimacy” is an objective-based determination, and none of the factors used to make the determination is independent of all others.

Based on this context, a series of observations are possible. Initially, the context indicates that the 462 chemical contaminants presently designated as “Appendix VIII hazardous constituents” are the principal focus of inquiry. The inquiry is based on hazardous constituents that are not present in analogous products. 40 C.F.R. 260.43(c)(2)(i) (2009) (corresponding with 35 Ill. Adm. Code 720.143(c)(2)(A)); *see* appendix VIII to 40 C.F.R. 261 (2009) (corresponding with Appendix H of 35 Ill. Adm. Code 721). A companion inquiry relates to whether Appendix VIII hazardous constituents are present “at levels that are significantly elevated from those found in analogous products.” 40 C.F.R. 260.43(c)(2)(ii) (2009) (corresponding with 35 Ill. Adm. Code 720.143(c)(2)(B)). The fact that USEPA codified a two-part inquiry, with one aspect directed at hazardous constituents that are normally absent, and the other directed at hazardous constituents that are normally present, indicates that the terms “significant” or “significance” are intended in functional, relative terms.

The questions then become, relative to what, and for what function? The Board believes that the determination is made relative to an “analogous product” made using “analogous raw material.” 40 C.F.R. 260.43(c)(1), (c)(2)(i), and (c)(2)(ii) (2009) (corresponding with 35 Ill. Adm. Code 720.143(c)(1), (c)(2)(A), and (c)(2)(B)). The Board further believes that the determination is made for the purpose of protecting “human health and the environment.” *See* 40 C.F.R. 260.40 and 260.43(c) (2009) (corresponding with 35 Ill. Adm. Code 720.140 and 720.143(c)); *see also, e.g.*, 42 U.S.C. §§ 6921(g), 6923(a), and 6925(c)(3). This would mean that what is “significant” would relate to both using the HSM *vis-à-vis* using an analogous raw material (or not using the HSM to produce an analogous product) and to the potential impact of using the HSM on human health and the environment.

Examination of USEPA’s discussion of “Factor 4,” of which 40 C.F.R. 260.43(c)(2)(i) (corresponding with 35 Ill. Adm. Code 720.143(c)(2)(A)) is one segment, supports the Board’s

observation, but adds an additional consideration. USEPA observed as follows relative to “Factor 4”:

The second of the additional factors that must be considered requires those making a legitimacy determination to look at the concentrations of the hazardous constituents found in the product made from hazardous secondary materials and compare them to the concentrations of hazardous constituents in analogous products. Any of the following three situations could be an indicator of sham recycling: a product that contains significant levels of hazardous constituents that are not found in the analogous products; a product with hazardous constituents that were in the analogous products, but contains them at significantly higher concentrations; or a product that exhibits a hazardous characteristic that analogous products do not exhibit. Any of these situations could indicate that sham recycling is occurring because in lieu of proper hazardous waste disposal, the recycler could have incorporated hazardous constituents into the final product when they are not needed to make that product effective in its purpose. This factor, therefore, is designed to determine when toxics that are “along for the ride” are discarded in a final product and, therefore, the hazardous secondary material is not being legitimately recycled. 73 Fed. Reg. at 64704.

USEPA’s concern, as expressed in this passage, is that reclamation not be used as an alternative mode of disposal of HSM. The fact that “a product . . . contains significant levels of hazardous constituents that are not found in the analogous products” could indicate that toxic constituents “are along for the ride” and are actually discarded in the product. Thus, the “significant concentrations” would also not only act as an indicator that the toxics are “along for the ride,” but would also relate to the ultimate conclusion that the reclamation of HSM is being used as a method of disposal outside the ambit of hazardous waste regulation.

USEPA continued its discussion of Factor 4 as follows:

This factor identifies three ways to evaluate whether or not unacceptable amounts of hazardous constituents are passed through to the products of the recycling process. * * * The first method specifies that when analogous products made from raw materials do not contain hazardous constituents, the product of the recycling process should not contain significant amounts of hazardous constituents. For example, if paint made from reclaimed solvent contains significant amounts of cadmium, but the same type of paint made from virgin raw materials does not contain cadmium, it could indicate that the cadmium serves no useful purpose and is being passed through the recycling process and discarded in the product.

* * *

The [USEPA] has determined that it is appropriate for this factor to be considered in legitimacy determinations under the final exclusions and in the non-

waste determinations in this action, but thinks that there may be situations in which the factor is not met but the recycling would still be considered legitimate. An example of this kind of situation that has been addressed by [USEPA] under the current regulatory scheme would be in the use and reuse of foundry sands for mold making in a facility's sand loop. Because of repeated exposure to metals in a foundry's process, the sands used to make the molds may have significantly higher concentrations of hazardous constituents than virgin sand. However, because the sand is part of an industrial process where there is little chance of the hazardous constituents being released into the environment or causing damage to human health and the environment when it is kept inside, because there is lead throughout the foundry's process, and because there is a clear value to reusing the sand, this would be an example of a situation where this factor is not met, but it does not affect the legitimacy of the recycling process.

In fact, [US]EPA has concluded as a general matter that foundries engaged in the reuse of lead-containing foundry sands are recycling those sands legitimately and these sands would not be regulated under RCRA Subtitle C (under the circumstances described in [US]EPA's March 2001 memorandum on this subject). Thus, while the used sands in the sand loop arguably have toxics-along-for-the-ride, [US]EPA did not raise questions about the legitimacy of the recycling, given the overall nature of the operations. If the used foundry sand were being recycled into a different product, such as a material used on the ground or in children's play sand, the legitimacy determination would be very different and significant levels of metals would likely render the recycling illegitimate. The same conclusions would be reached applying the factors codified in [40 C.F.R.] 260.43. 73 Fed. Reg. at 64704-05.

Thus, consideration of "significant concentrations" both figures into the ultimate conclusion and is at least partially dependent on the conclusion, as such is based on that ultimate conclusion. The ultimate consideration is protection of human health and the environment in reaching that conclusion.

Further supporting this conclusion is the following conclusive assertion of USEPA with regard to Factor 4:

[I]f a facility considers a factor and decides that it is not applicable to its process, the Agency suggests that the facility evaluate the presence of hazardous constituents in its product and be prepared to demonstrate both that it considered this factor and the reasons it believes the factor is not relevant. 73 Fed. Reg. at 64704-05.

Request for a Definition of "Handles." The Agency requested in PC 5 that the Board add a definition of the term "handles," as follows:

Sections 721.104(a)(24)(B) and (F) contain the term "handles", which has not been defined. The [Agency] asks for this term to be defined. The term "management" as defined in 35 Ill. Adm. Code 720.110 has been used similarly to identify specific activities associated with hazardous waste and the Illinois EPA believes the term "handles" could be defined in a similar manner. PC 5 at ¶ 3.

In response, the Board declines to add a definition of "handles." Instead, the Board changes the word to the defined term "manages" in the two segments of text cited by the Agency.³ If the two terms have the same meaning, and one term is defined and has been in use for a prolonged time, the Board would prefer to use the older, defined term.

The Alternative Waste Accumulation Standards for Eligible Academic Entities

On December 1, 2008 (73 Fed. Reg. 72911), USEPA adopted alternative management standards to hazardous waste regulations for laboratory accumulation of "unwanted material" at an "eligible academic entity" that would otherwise be subject to the waste accumulation requirements in the general hazardous waste generator standards. An "eligible academic entity" is an accredited, degree-granting college or university or a non-profit research institute owned by or operating under a written affiliation agreement with a college or university. The new alternative requirements relate to accumulation of waste at the point of generation and the movement of that waste to a "central accumulation area" within the eligible academic entity's facility. The alternative standards principally affect the mechanics and timing of the hazardous waste determination.

A detailed discussion of the alternative laboratory accumulation standards for eligible academic entities appears at pages 238 through 266 of the Board's opinion in RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16, RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (consolidated) (June 17, 2010). On pages 265 through 266 of the June 17, 2010 opinion, the Board made a general request for comments on the proposal for public comment

³ The regulations actually include the following definition:

"Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste. 35 Ill. Adm. Code 720.110 (derived from 40 C.F.R. 260.10 (2009)).

Deriving a meaning for the verb form "manages" from this definition is straightforward, even though the definition pertains to "hazardous waste" and not HSM. The operative segments of the definition define "manage" as meaning "engage in 'the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal' of waste or secondary material."

relative to the alternative laboratory accumulation standards for eligible academic entities. The Board further specifically asked for comments on two aspects of the alternative standards.

None of the comments received addressed any of those specific requests. For this reason, the Board incorporates the USEPA alternative accumulation standards for eligible academic entities into the Illinois regulations without substantive revisions from the June 17, 2010 proposal for public comment. The revisions made upon final adoption are limited to minor stylistic and corrective changes made in response to the comments received. Table 1 (which begins below at page 17) indicates revisions to the text that the Board has undertaken in response to the comments received. Table 2 (which begins immediately after Table 1, at page 25) indicates suggestions that the Board has chosen not to follow, including a brief explanation why the Board chose not to accept the suggestion.

The Emission-Comparable Fuels Rule

On December 19, 2008 (73 Fed. Reg. 77594), USEPA amended the Comparable Fuels Rule of 40 C.F.R. 261.138 to further exclude “emission-comparable fuels” (ECF) from the definition of solid waste. USEPA used the opportunity of the ECF rule to make a series of minor amendments to the syngas/comparable fuels rule. On June 15, 2010 (at 75 Fed. Reg. 33712), USEPA withdrew the December 19, 2008 ECF rule, leaving the series of minor amendments intact. One principal amendment left intact was the reference of the syngas and comparable fuels collectively as “excluded fuels.”

A more detailed discussion of the excluded fuels rule appears at pages 266 through 270 of the Board’s opinion in RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010), R09-16, RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (consolidated) (June 17, 2010). What follows considers only the comments received in response to numerous specific requests for comments. On pages 269 and 270 of the June 17, 2010 opinion, the Board made a general request for comments on the proposal for public comment relative to the excluded fuels rule. The Board further specifically asked for comments on aspects of the alternative standards.

None of the comments received addressed the Board’s specific requests for comments. For this reason, the Board incorporates the USEPA alternative accumulation standards for eligible academic entities into the Illinois regulations without substantive revisions from the June 17, 2010 proposal for public comment, with one exception. USEPA (PC 4 at ¶ 2) and the Agency (PC 5 at ¶ 7) both noted that 35 Ill. Adm. Code 721.138(a)(6) was missing from the text. The Board observes that this subsection (a)(6) is overstruck as deleted in a segment of text that has been renumbered as several subsections of new subsection (b). The Board inadvertently failed to move subsection (a)(6) to the new position in the text. That omission is corrected in the text of the adopted rules.

All other revisions made upon final adoption are limited to minor stylistic and corrective changes made in response to the comments received. Table 1 (which begins below at page 17) indicates revisions to the text that the Board has undertaken in response to the comments

received. Table 2 (which begins immediately after Table 1, at page 25) indicates suggestions that the Board has chosen not to follow, including a brief explanation why the Board chose not to accept the suggestion.

Corrected USEPA Addresses

On June 25, 2009 (74 Fed. Reg. 30228), USEPA revised various segments of the environmental regulations to reflect the change of the former Office of Solid Waste to the new Office of Resource Conservation and Recovery. USEPA stated that reorganization and an increased emphasis on resource recovery prompted the change in name, necessitating the amendments. 74 Fed. Reg. at 30229. The Board corrected the name “Office of Solid Waste” to “Office of Resource Conservation and Recovery” throughout the Illinois hazardous waste rules, including in provisions that do not directly correspond with the federal provisions changed by USEPA. The Board added specific amendments to 35 Ill. Adm. Code 722.121 to correspond with USEPA’s amendments to 40 C.F.R. 272.21. The Board also changed references to “Office of Solid Waste” in 35 Ill. Adm. Code 720.122, 724.152, and 725.152, although these did not directly correspond with segments of federal text amended by USEPA.

The Board requested comments on the amendments based on the June 25, 2009 change in name of the “Office of Solid Waste” to “Office of Resource Conservation and Recovery.” The Board received no comments, so the Board now adopts the amendments without substantive revisions.

Agency Comments That Do Not Directly Pertain to the Federally Derived Amendments

Agency comments in PC 5 did not directly pertain to the amendments proposed in this consolidated R09-16/R10-4 update docket. The following outlines those Agency comments, together with the Board’s response to each.

Definition of “Gasification.” The Board inadvertently underlined the definition of “gasification” in the June 17, 2010 proposal for public comment. *See RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008), R09-16 and RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009), R10-4 (June 17, 2010), slip or. at p. 34. (June 17, 2010).* USEPA adopted this definition of “gasification” together with the exclusion of 40 C.F.R. 261.4(a)(12) (corresponding with 35 Ill. Adm. Code 721.104(a)(12)) on January 2, 2008 (at 73 Fed. Reg. 72). The Board adopted this definition in *RCRA Subtitle C Update, USEPA Amendments (January 1, 2008 through June 30, 2008), R09-3 (Nov. 20, 2008).* The definition should not have been underlined in the June 17, 2010 proposal for public comment, since the definition represented existing regulatory language.

The Agency commented in PC 5 with regard to this definition as follows:

The Board defines “gasification” as a device that is designed and operated to process petroleum feedstock. The [Agency] believes this definition of gasification

is lacking. None of the proposed gasification facilities known to the [Agency] use oil-bearing or petroleum based feedstock but instead use manure, medical waste, hazardous waste and garbage. Therefore, the [Agency] asks for clarification from the Board if a unit which processes materials other than petroleum feedstock in lieu of or in conjunction with the petroleum feedstock would meet the definition of a gasification unit. PC 5 at ¶ 1.

The Board responds to the Agency’s comments that no clarifying revision is necessary. The definition states by its own terms that it applies “for the purpose of complying with 35 Ill. Adm. Code 721.104(a)(12)(A).” The pertinent provision is an exclusion from the definition of solid waste for certain, specified materials. The exclusion in Section 721.104(a)(12)(A) describes the excluded secondary materials as “[o]il-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process” In this context, the definition could not be applied to processes that use “manure, medical waste, hazardous waste, and garbage,” as noted by the Agency, unless the material also fulfills the conditions of Section 721.104(a)(12)(A).

Miscellaneous Corrections. The Agency commented in PC 5 that two errors existed in the base text of the hazardous waste rules. Response to each comment requires correction of a cross-reference. The first, in 35 Ill. Adm. Code 721.101(c)(4), involves a segment of text included in the June 17, 2010 proposal for public comment. The second, in 35 Ill. Adm. Code 724.199(c)(1) involves a segment not included in the proposal. The Board has corrected both cross-references, as indicated in Table 1 below. This required adding 35 Ill. Adm. Code 724.199 to this proceeding. The Board has done so because the correction to Section 724.199 is minor and non-substantive and Part 724 is open in this proceeding for federal amendments.

Tables of Revisions to the Text Upon Final Adoption

The tables below list numerous corrections and amendments that are not based on current federal amendments. Table 1 (beginning immediately below) is a listing of revisions made to the text of the amendments from that proposed and set forth in the Board’s opinion and order of June 17, 2010. Table 1 indicates the changes made, as well as the source that suggested each of the changes. Table 2 (on page 25 below) indicates suggested revisions that the Board has not made in adopting these amendments. Each entry gives a brief explanation why the Board did not incorporate the suggested change. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning at page 5 of this opinion.

Table 1:
Revisions to the Text of the Proposed Amendments in Final Adoption

Section Revised	Source(s) of Revision(s)	Revision(s)
703 table of contents, 703.Appendix A heading	JCAR	Changed “Appendix” to all-capitalized “APPENDIX”

703.Appendix A heading	JCAR	Changed "Appendix" to all-capitalized "APPENDIX"
703.Appendix A, ¶ A.9.	JCAR	Corrected "Section 721.104" to "35 Ill. Adm. Code 721.104"
703.Appendix A, ¶ A.10.	JCAR	Corrected "Section 721.104" to "35 Ill. Adm. Code 721.104"
720 table of contents, 720.130 heading	JCAR	Moved the formerly omitted segment "and Non-Waste Determinations" at the end from the Section 720.134 heading
720 table of contents, 720.134 heading	JCAR	Moved the formerly duplicated segment "and Non-Waste Determinations" from the end to the Section 720.130 heading
720.110 "gasification"	Board	Removed the unnecessary underlining that formerly appeared in text that is on file.
720.110 "hazardous secondary material generated and reclaimed under control of the generator"	JCAR	Corrected the spelling "defintion" to "definition"; changed the ending comma after "such facilities" to a semicolon
720.110 "intermediate facility"	JCAR	Added the conjunction "and" before "which is"
720.110 "NAICS Code"	JCAR	Moved the definition into its appropriate position in alphabetic order
720.111(a) "ACGME"	JCAR	Removed the unnecessary colon after the comma before "312-755-5000"
720.111(a) "NTIS," "North American Industrial Classification System"	JCAR	Changed the abbreviated "doc. no." to "document number"; corrected the misspelled acronym "NIACS" to "NAICS"
720.133 preamble	JCAR	Added "for evaluating" before "an application"
720.134(a)	JCAR	Changed "section 28.2" to capitalized "Section 28.2"
720.142(a)(5)	JCAR	Corrected plural "manage" to singular "manages"
720.142(b)	JCAR	Changed "within 30 days of" to "within 30 days after"
720.143 Board note	JCAR	Corrected the abbreviation "C.F.R" to "CFR" (three times); changed plural "state" to singular "states"
721 table of contents, 721.Appendix Z heading	JCAR	Change capitalized "That" to lower-case "that"
721.101(c)(4)	JCAR, Agency	Corrected "721. 104(a)(23)" to "721.104(a)(23)"; corrected 726.112 to "726.212"
721.102(c)(3)	JCAR	Changed plural "they meet" to singular "it meets"
721.102(e)(2)(D)	JCAR	Corrected "hazardous waste number" to "USEPA hazardous waste number"
721.104(a)(24)(A)	Agency	Corrected "721.10" to "721.110"
721.104(a)(24)(B)	Agency, Board	Changed "handles" to "manages"

721.104(a)(24)(E)	JCAR	Changed “where” to “when” before “non-RCRA management . . . will occur”
721.104(a)(24)(E)(ii) Board note	JCAR	Corrected the abbreviation “C.F.R” to “CFR”; added “to” after “relating”
721.104(a)(24)(E)(iii)	JCAR	Added a comma before “together with” to offset the parenthetical
721.104(a)(24)(F)	Agency, Board	Changed “handles” to “manages”
721.104(a)(24)(F)(ii)	JCAR	Corrected “subsection (b)(24)(F)(i)” to “subsection (a)(24)(F)(i)”
721.104(a)(24)(H)(iii)	JCAR	Corrected “from USEPA, the Agency, the Office of the Attorney General, or the facility itself” to “from USEPA, the Agency, the Office of the Attorney General, or from the facility itself”
721.104(a)(24)(H)(iii) Board note	JCAR	Corrected “an SNC” to “a SNC”
721.104(a)(24)(H)(v) Board note	JCAR	Corrected the abbreviation “C.F.R” to “CFR”; added “to” after “relating”
721.104(a)(25)	JCAR	Changed “apply as to” to “apply to”
721.104(a)(25)(A)	JCAR	Changed “in writing, signed ” to “in writing and signed ”; added “must” before “include”
721.104(a)(25)(E)	JCAR	Changed “where” to “when” before “a claim of confidentiality is asserted”
721.104(a)(25)(F)	JCAR	Changed “where” to “when” before “the receiving country objects”
721.104(a)(25)(K)	JCAR	Added a comma before “no later than . . . each year” to completely offset the parenthetical
721.104(a)(25)(K)(v) certification statement	JCAR	Added a comma before “based on . . . information” to completely offset the parenthetical; added a comma before “including . . . imprisonment” to offset the parenthetical
721.105(c)(7)	JCAR	Changed “given the term” to “given that term”
721.106(c)(1)	CHMM	Corrected “Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 702, 703, and 705; 724; and Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 725; 726; 728” to “Subparts A through L, AA, BB, and CC of 35 Ill. Adm. Code 724 and 725 and 35 Ill. Adm. Code 702, 703, 705, 724, 726, and 728”
721.133(f) numerical listing	JCAR	Changed bold typeface “ ethane, 1,1,2-trichloro- ” to normal typeface “ethane, 1,1,2-trichloro-”
721.138(a)	JCAR	Corrected plural “subsections” to singular “subsection”

721.138(a)(4)(A)	JCAR	added a comma before “provided the treatment” to offset the parenthetical
721.138(a)(6)	USEPA, Agency, JCAR, Board	Restored the provision, adding “for comparable and syngas fuels” after “prohibition,” changing “no generator . . . must” to “a generator . . . must not,” and changing “subsection (a)(1)(A), (a)(2), or (b)” to “subsections (a)(1)(A)(i) or (a)(1)(B)”
721.138(b)(2)(A)(i)	JCAR	Corrected “paragraph” to “subsection”
721.138(b)(2)(A)(i) Board note	JCAR	Corrected the spelling “Adminstrative” to “Administrative”
721.138(b)(2)(C)(iii)	Board	Corrected “subsection (c)(2)” to “subsections (b)(3) and (c)”
721.138(b)(4)(C)	JCAR, USEPA	Corrected “(b)(4)(i)” to “(b)(4)(A)”; changed “section” to capitalized “Section”; restored the previously omitted text on file: “analysis plan . . . deems appropriate”
721.138(b)(5)(A)	JCAR	Corrected plural “paragraphs” to singular “subsection”; changed “constituents on” to “constituents in”
721.138(b)(5)(B)	JCAR	Corrected “(b)(5)(i)” to “(b)(5)(A)”
721.138(b)(5)(D)	JCAR	Corrected “(c)(8)” to “(b)(5)”
721.138(b)(5)(G)(ii)	JCAR	Corrected the spelling “specficiations” to “specifications”; corrected “261.38(b)(5)(vii)(B)(I) and (b)(5)(vii)(B)(I)” to “261.38(b)(5)(vii)(B)(I) and (b)(5)(vii)(B)(2)”
721.138(b)(5)(H)	JCAR	Corrected the subsection number “I” to “H”; changed “than may affect” to “that may affect”
721.138(b)(8)(D)	JCAR	Corrected “(b)(5)(i)” to “(b)(5)(A)”
721.138(b)(5)(E)	JCAR	Corrected “(b)(4)” to “(b)(5)”
721.138(b)(5)(F)	JCAR	Corrected “paragraphs” to “subsections”
721.138(b)(5)(H)	JCAR	Corrected “paragraphs” to “subsections”; corrected “section” to capitalized “Section”
721.138(b)(8)(I)(iv)	JCAR	Corrected “(b)(4)” to “(b)(5)”
721.138(b)(10)(A)	JCAR	Corrected “(c)(2)” to “(b)(3)”
721.138(b)(13)(C)	JCAR	Corrected “subsections (a)(1) or (a)(2)” to “subsection (a)(1) or (a)(2)”
721.138(b)(13)(C)(iii)	JCAR	Corrected “fuel were” to singular “fuel was”; corrected the spelling “resides” to “residues”
721.138(b)(14)	JCAR	Corrected “Section 722.134” to “35 Ill. Adm. Code 722.134”; corrected “o 727” to “or 727”
721.138(c)	JCAR	Corrected “[415 ILCS 5/30]” to “[415 ILCS 5/31]”
721.138(c) Board note	JCAR	Changed “section 31(a) and (d)” to capitalized “Section 31(a) and (d)”

721.240(a)	JCAR	Corrected “35 Ill. Adm. Code 721.104(a)(24)” to “Section 721.104(a)(24)”
721.241	JCAR	Corrected “265.241(d), (f), (g), and (h)” to “725.241(d), (f), (g), and (h)”; corrected “265.241” to “725.241”
721.243(a)(1)	JCAR	Changed “which” to “that” after “an entity” for a restrictive relative clause
721.243(a)(6)	JCAR	Corrected lower-case “section” to capitalized “Section”
721.243(a)(7)	JCAR	Added a comma after “in accordance with 35 Ill. Adm. Code 725.243(i)” to completely offset the parenthetical
721.243(b)(3)	JCAR	Corrected lower-case “section” to capitalized “Section”
721.243(b)(4)(C)	JCAR	Removed the unnecessary comma from before “and obtain”
721.243(b)(9)	JCAR, Board	Changed “his receipt” to “the Agency’s receipt”
721.243(c)(3)	JCAR	Corrected lower-case “section” to capitalized “Section” (twice)
721.243(d)(1)	JCAR	Added the comma omitted after “the Agency”
721.243(d)(4)	JCAR	Added the conjunction “and” before “to pay”
721.243(d)(5) Board note	JCAR	Corrected lower-case “section” to capitalized “Section”
721.243(d)(6)	JCAR, Board	Corrected lower-case “section” to capitalized “Section” (twice); corrected “remedy as are deemed necessary” to singular “remedy as is deemed necessary”
721.243(d)(8)	JCAR	Corrected “one of the following events occur” to singular “one of the following events occurs”
721.243(d)(10)	JCAR	Corrected “one of the following events occur” to singular “one of the following events occurs”
721.243(e)(1)(B)(i)	JCAR	Changed “his” to “its”
721.243(e)(2) Board note	JCAR	Added the formerly omitted quotation marks after “cost estimate” and “40 CFR 261”; added a comma before “as appropriate” to offset the parenthetical; added the formerly omitted ending period
721.243(e)(8)	JCAR	Corrected “this subsection (e)(6)” to “this subsection (e)(8)”
721.243(e) Board note	JCAR	Corrected “264.241(h)” to “724.241(h)”; corrected “265.241(h)” to “725.241(h)”
721.243(h)(1)	JCAR	Corrected “35 Ill. Adm. Code 721.104(a)(24)(F)(vi)” to “Section 721.104(a)(24)(F)(vi)”
721.243(h)(2)(A)	JCAR	Added the period after “etc”

721.243(h)(2)(B)	JCAR	Added the comma before “including, but not limited to” to completely offset the parenthetical
721.243(h)(2)(C)	JCAR	Added the period after “etc”
721.243(h)(2)(D)	JCAR	Changed “which” to “that” for a restrictive relative clause
721.243(h)(3)	JCAR	Corrected the spelling “recieves” to “receives”; changed “no later than 30 days of the date” to “no later than 30 days after the date”; changed “within 90 days of receipt” to “within 90 days after receipt”; corrected “such written a statement” to “such a written statement”; changed “subsection (h) of this Section” to “the subsection (h)”
721.243(h)(4)	JCAR	Changed “within 60 days of completion” to “within 60 days after completion”; moved “upon request” from after “certification” to act as an introductory clause offset by a comma; corrected the spelling “Agneycy” to “Agency”; corrected “requirements for Section” to “requirements of Section”
721.247(a)(5)	JCAR	Corrected lower-case “section” to capitalized “Section”
721.247(a) Board note	JCAR	Corrected “compliance with the provision to a facility” to “compliance with the provision by a facility”
721.247(b)	Board, JCAR	Corrected “may establish this liability coverage may be demonstrated by” to capitalized “may demonstrate this liability coverage by”
721.247(b)(7)(B)	JCAR	Corrected “any of subsection subsections (b)(1) through (b)(6)” to “any of subsections (b)(1) through (b)(6)”
721.247(b) Board note	JCAR	Corrected “compliance with the provision to a facility” to “compliance with the provision by a facility”
721.247(c)	JCAR	Corrected lower-case “section” to capitalized “Section”
721.247(d) Board note	JCAR	Corrected lower-case “section” to capitalized “Section”
721.247(e) Board note	JCAR	Corrected lower-case “section” to capitalized “Section”
721.247(f)(1)(B)(i)	JCAR	Changed “his” to “its”
721.247(f)(4)	JCAR	Corrected “subsection (f)(3)(4)” to “subsection (f)(4)”
721.247(g)(1)(B)	JCAR, Board	Corrected the double single quotation marks to single double quotation marks before and after “substantial business relationship”; corrected “subsection (f)(3)(4)” to “subsection (f)(4)”; corrected “subsections (g)(2)(A) or (g)(2)(B)” to singular “subsections (g)(2)(A) or (g)(2)(B)”

721.247(g)(1)(B) Board note	JCAR	Corrected lower-case “section” to capitalized “Section”; added “this” before “subsection (g)(1)(B)”; changed hyphenated “USEPA-standard form” to “USEPA standard form”
721.247(g)(2)(A)(ii)	JCAR, Board	Changed “the State in which” to “as the state in which”
721.247(g)(2)(B)(i)	JCAR, Board	Changed “the State in which” to “as the state in which”
721.247(g)(2)(B)(ii)	JCAR, Board	Changed “the State in which” to “as the state in which”; removed the unnecessary comma after “State of Illinois”
721.247(g)(1)(C) Board note	JCAR	Added “to” before “this subsection (g)(2)(C)”; corrected “subsection (g)(2)(A) or (g)(2)(B)” to singular “subsection (g)(2)(A) or (g)(2)(B)”; corrected “subsections (g)(2)(A)(ii) or (g)(2)(B)(ii)” to singular “subsections (g)(2)(A)(ii) or (g)(2)(B)(ii)”
721.247(i)(2) Board note	JCAR	Changed “available from” to “available at”
721.247(i)(4)(B)	JCAR, Board	Changed “the State in which” to “as the state in which”; removed the unnecessary comma after “State of Illinois”
721.248(a)	JCAR	Corrected the spacing in “pursuant toTitle 11” to “pursuant to Title 11”
721.250	Board, JCAR	Corrected “since is important” to “since USEPA approval of the Illinois requirements is important”; changed “although it does not” to “although the federal provision does not”
721.Appendix Y “bis(2-ethylhexyl)phthalate”	Board	Corrected the alternative name “di-2-ethylhexyl phthalate” to “di(2-ethylhexyl) phthalate”
722 table of contents, 722.Appendix A heading	JCAR	Changed “Appendix” to all-capitalized “APPENDIX”
722.110(j)	JCAR, Board	Added the subsection explaining the absence of a corresponding State provision
722.110(k)	JCAR, Board	Added the subsection explaining the absence of a corresponding State provision
722.110(l)(1)	JCAR	Corrected “722.134(c)” to “Section 722.134(c)”
722.300 “formal written affiliation agreement”	JCAR	Corrected “Section 720.110” to “35 Ill. Adm. Code 720.110”; removed the unnecessary comma after “entitled”
722.300 “laboratory clean-out”	JCAR	Corrected “cleanout” to “clean-out”
722.300 “non-profit research institute”	Board, JCAR	Changed “under the tax code 26 USC 501(c)(3)” to “under Section 501(c)(3) the federal tax code (26 USC 501(c)(3))”

722.302(a)	JCAR	Corrected “Section 722.111 and 722.134(c)” to plural “Sections 722.111 and 722.134(c)”
722.303(b), numbered ¶ 2.	JCAR	Added the formerly omitted closing parenthesis mark
722.303(c)	JCAR	Corrected “subsection (b)” to “subsection (a)”
722.304(b), numbered ¶ 2.	JCAR	Added the formerly omitted closing parenthesis mark
722.304(c)	JCAR	Corrected “subsection (b)” to “subsection (a)”
722.306(a)(1)(B)	JCAR	Added the formerly omitted comma after “but not limited to” to complete offset of the parenthetical
722.306(a)(1)(B)(i)	JCAR	Removed the unnecessary comma before “or, if known, the product”
722.306(b)	JCAR	Added the formerly omitted period after the topical sub-heading “Management of Containers in the Laboratory”
722.306(b)(3)(B)	JCAR	Added “until” before “the end of the work shift”
722.307(b)	JCAR	Added the formerly omitted comma after “but not limited to” to complete offset of the parenthetical
722.307(d)	JCAR	Corrected “either the following” to “either of the following”
722.308(a)(2)	JCAR	Changed “within six months of” to “within six months after”
722.308(d)(1)(B)	JCAR	Changed “within 10 calendar days of” to “within 10 calendar days after”
722.308(d)(2)(B)	JCAR	Changed “within 10 calendar days of” to “within 10 calendar days after”
722.310 preamble	JCAR	Changed “where” to “when” to relate to an event or occurrence
722.310(d)	JCAR	Added a comma before “the following” to offset the parenthetical
722.310(d)(2)	JCAR	Corrected “721.5(g)(3)” to “721.105(g)(3)”
722.311 preamble	JCAR	Changed “where” to “when” to relate to an event or occurrence
722.311(c)	USEPA	Corrected the spelling “arge” to “large”
722.311(e)(3)	JCAR	Changed the ending comma to a semicolon
722.312 preamble	JCAR	Changed “where” to “when” to relate to an event or occurrence; corrected “fulfill with the following” to “fulfill the following”
722.312(e)(2)	JCAR	Changed “disposed on-site” to “disposed of on-site”
722.313(a)(4)	JCAR	Changed the ending semicolon to a period and removed the ending conjunction “and”
722.314(a)(1)(B)	JCAR	Changed “as it would if called” to “as if it were called”; moved the semicolon outside the closing quotation mark after “unwanted material”

722.314(b)(4)(A)	JCAR	Changed the ending period to a semicolon
722.314(b)(4)(B)(i)	JCAR	Changed “within 10 calendar days of” to “within 10 calendar days after”
722.314(b)(4)(B)(ii)	JCAR	Changed the ending period to a semicolon
722.314(b)(5)	JCAR	Corrected “Section 722.111 and 722.309 through 722.312” to plural “Sections 722.111 and 722.309 through 722.312”; changed the ending period to a semicolon
722.314(b)(6)(A)	JCAR	Changed “Section 722.313(a)(1) through (3)” to “Section 722.313(a)(1) through (a)(3)”
722.314(b)(6)(B)	JCAR	Changed the ending period to a semicolon
722.315 heading	JCAR	Changed “is” to capitalized “Is”
722.316(a)	JCAR	Corrected “40 CFR part 722” to “40 CFR 722”
724.199(c)(1)	Agency	Corrected “724.297(g)” to “724.197(g)”

Table 2:
Requested Revisions to the Text of the Proposed
Amendments Not Made in Final Adoption

Section Affected	Source of Request: Requested Revision(s)	Explanation Why Declined
720.110 “gasification”	Agency: Clarify what non-petroleum materials a unit can process within the definition of “gasification.”	The Board does not need to clarify the definition, the Board explains the scope of the definition on page 16 of this opinion.
720.110 “handles”	Agency: Add a definition of “handles.”	The Board declines adding a definition, but instead changes the appearances of “handles” to “manages,” as explained on page 13 of this opinion.
720.110 “hazardous secondary material generated and reclaimed under the control of the generator,” “tolling contractor” segment and certification	JCAR: Change “a material that is generated . . . and which is reclaimed” to “a material that is generated . . . and that is reclaimed.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
720.110 “industrial process”	Agency: Add a definition of “industrial process.”	The Board declines adding a definition for the reasons set forth on pages 6 through 8 of this opinion.

720.110 “intermediate”	Agency: Add a definition of “intermediate.”	The Board declines adding a definition for the reasons set forth on page 8 of this opinion.
720.110 “intermediate facility”	JCAR: Change “any facility that stores . . . which is neither a . . . generator nor a reclaimer” to “any facility that stores . . . and which is neither a . . . generator nor a reclaimer.”	The Board added the conjunction “and” (see preceding table) but did not change “which” to “that.” The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
720.110 “product”	Agency: Add a definition of “product.”	The Board declines adding a definition for the reasons set forth on page 8 of this opinion.
720.110 “TEQ”	JCAR: Add a hard hyphen after “tetra” to change “2,3,7,8-tetra-chlorodibenzo-p-dioxin” to “2,3,7,8-tetra-chlorodibenzo-p-dioxin.”	The Board added soft hyphens after “tetra” and “chloro” in the text to facilitate line breaks for the long chemical name. In the text of the rule as submitted by the Board, this occurred after “tetra,” so that a hyphen appeared. The hyphen should not appear except when the chemical name encounters a line break after the location of either of the two soft hyphens described.
720.111(a) “NTIS,” “NAICS”	JCAR: Change “U.S. Department of Commerce, Bureau of Census” to “U.S. Department of Commerce, U.S. Census Bureau”; change “Bureau of Census” to “U.S. Census Bureau.”	The Board prefers to use the official agency title, “Bureau of Census,” as such is provided by 14 U.S.C. §§ 1 & 2 (2007).
720.134(a)(2)(A)	JCAR: Change “has granted an adjusted standard which determines that” to “has granted an adjusted standard determining.”	The Board prefers to retain “which determines,” for a restrictive relative clause, rather than use the gerund-participle “determining,” which only modifies “adjusted standard.”
720.134(b)(4) and (c)(5)	JCAR: Change “factors which demonstrate that” to “factors demonstrating that.”	The Board prefers to retain “which demonstrate,” for a restrictive relative clause, than to use the gerund-participle “demonstrating,” which only modifies “adjusted standard.”

720.142(a)	JCAR: Change “that manages . . . materials which are excluded” to “that manages . . . materials that are excluded.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
720.142(b)	JCAR: Change singular “hazardous secondary material generator” to plural “hazardous secondary materials generator.”	The Board’s chosen language duplicates the federal original as it appears at 40 C.F.R. 260.42(b). Since a particular generator may produce a single HSM, use of the plural could potentially be misread as limiting language.
720.143(a)	JCAR: Change “that is regulated . . . or which claims” to “that is regulated . . . or that claims.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
720.143(c), (c)(1), (c)(2), and (c)(3)	JCAR: Reorganize the material, so that subsection (c)(1) is split into subsections (c)(1) and (c)(1)(A); subsection (c)(2) is renumbered and split into subsection (c)(1)(B), (c)(1)(B)(i), (c)(1)(B)(ii), and (c)(1)(B)(iii); and subsection (c)(3) is renumbered to (c)(2), including all necessary changes to cross-references within the several subsections.	The Board’s chosen structure more closely parallels that of the corresponding federal provision at 40 C.F.R. 260.43(c). Retaining the structure as closely as possible to that of the corresponding federal provision aids any future comparative review or amendment of the provisions. With the Board-added clarifying language “must consider the factors of subsections (c)(1) and (c)(2) of this Section, in the way described in subsection (c)(3) of this Section” that appeared in subsection (c) of the proposal, there is little chance of confused meaning.
720.143(c)(2)(i)	Agency: Provide guidance as to what constitute “significant concentrations.”	The Board can provide no guidance beyond that given by USEPA, as explained on pages 9 through 13 of this opinion.
721.104(a)(24)(F)	JCAR: Change “that handles material which is excluded” to “that handles material that is excluded.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.

721.104(a)(24)(H)(iii)	JCAR: Change “which indicates that the facility has addressed” to “that indicates the facility has addressed.”	The Board prefers to retain the conjunction “that” before “the facility has addressed.”
721.104(a)(25)(K)(iv)	JCAR: Change “where applicable” to “when applicable.”	The proposed language directly follows that of corresponding 40 C.F.R. 261.104(a)(25)(xi)(D). The word is used in a situational sense, rather than in the sense of an occurrence, making “where” more appropriate than “when.”
721.104(d)(2)(A)	JCAR: Change the first occurrence of “USDOT” to “U.S. Department of Transportation (USDOT)”	The change is unnecessary because “USDOT” is a defined term in 35 Ill. Adm. Code 720.110.
721.105(c)(7)	JCAR: Change “hazardous waste that is . . . or which exhibits” to “hazardous waste that is . . . or that exhibits”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
721.133(e) alphabetical listing “phosphorothioic acid, O-(4-((dimethyl-amino)sulfonyl)-phenyl) O,O-dimethyl ester”	JCAR: Add a hard hyphen after “(dimethylamino)” changing “((dimethylamino)sulfonyl)” to “((dimethylamino)-sulfonyl).”	The Board added soft hyphens after “di,” “methyl,” “amino),” and “sulfonyl),” in the text to facilitate line breaks for the long chemical name. In the text of the rule as submitted by the Board, this occurred after “methyl,” so that a hyphen appeared. No similar hyphen appeared after “(dimethylamino).” The hyphen should not appear except when the chemical name encounters a line break after the location of any of the four soft hyphens described.

721.133(e) numerical listing "P097" (phosphorothioic acid, O-(4-((dimethylamino)sulfonyl)-phenyl) O,O-dimethyl ester)	JCAR: Add a hard hyphen after "(dimethylamino)" changing "((dimethylamino)sulfonyl)" to "((dimethylamino)-sulfonyl)."	The Board added soft hyphens after "di," "methyl," "amino)," "sulfonyl)," and "di," in the text to facilitate line breaks for the long chemical name. In the text of the rule as submitted by the Board, this occurred after "methyl," so that a hyphen appeared. No similar hyphen appeared after "(dimethylamino)." The hyphen should not appear except when the chemical name encounters a line break after the location of any of the five soft hyphens described.
721.133(e) numerical listing "P098" (argentate(1-), bis-(cyano-C)-, potassium)	JCAR: Remove the dash after "bis(cyano-C)-" changing "argentate(1-), bis(cyano-C)-" to "argentate(1-), bis(cyano-C)."	The dash is necessary to convey chemical structure, since the chemical name "potassium bis(cyano-C)argentate(1-)" has been broken to highlight the "argentite" segment of the name in the alphabetical listing.
721.133(f) alphabetical listing "ethane, 1,1,2-trichloro-"	JCAR: Change the CAS number "79-00-5" to "79-00-05."	The CAS number is correct as it appeared in the Board's June 17, 2010 proposal.
721.138(b)(2)(C)(iii)	JCAR: Change the cross-reference "subsections (b)(3) and (c)" to "subsections (b)(3) and (c)(2)"	The proposed cross-reference language directly follows that of corresponding 40 C.F.R. 261.138(b)(2)(i)(A)(3).
721.138(b)(15)(B)	JCAR: Change "excluded fuel that would have . . . and which is" to "excluded fuel that would have . . . and that is"	The Board's usage avoids repetitive use of "that" in the sentence by use of "which" for the subsequent restrictive relative clause.
721.242(c)	JCAR: Change "change in a facility's operating plan or design that would . . . or no later than 60 days after an unexpected event which increases" to "change in a facility's operating plan or design that would . . . or no later than 60 days after an unexpected event that increases"	The Board prefers to retain the conjunction "that" before "increases."

721.243(b)(7)	JCAR: Add a comma before “following written approval.”	The proposed language directly follows that of corresponding 40 C.F.R. 261.143(b)(7). The possibility of reducing the penal sum following Agency approval after a decrease in the cost estimate is clear on the face of the provision as proposed. The clause “following written approval by the Agency” is conditional language, not a parenthetical, so adding a comma might shift the scope of possible interpretation.
721.243(c)(4)	JCAR: Change “letter from the owner or operator that refers . . . and which provides” to “letter from the owner or operator that refers . . . and that provides”; remove the comma from “name, and address.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause; the comma separates the second and third elements of a three-element series.
721.243(c)(9)	JCAR: Change “has failed to provide alternative financial assurance . . . and obtain written approval” to “has failed to provide alternative financial assurance . . . and to obtain written approval.”	The proposed language directly follows that of corresponding 40 C.F.R. 261.143(c)(9). The appearance of “obtain” in this context is clearly understood as an (elliptical) infinitive in the context. Adding “to” before “obtain” would not correct an error in add clarity to the federal original.

721.243(d)(1)	<p>JCAR: Change “must be licensed to transact . . . insurance, or eligible to provide insurance as an . . . insurer, in one or more states” to “must be licensed to transact . . . insurance or be eligible to provide insurance as an . . . insurer, in one or more states.”</p>	<p>The proposed language directly follows that of corresponding 40 C.F.R. 261.143(d)(1). The appearance of “eligible” in this context is clearly understood as the referent of “must be” in the context; the commas before and after the alternative clause “or eligible to provide insurance as an . . . insurer” coordinate the two clauses and the concluding prepositional phrase “in one or more states.” Adding “be” before “eligible” would not correct an error in add clarity to the federal original. Removing the comma before “or eligible” while leaving the comma after “insurer” could skew the meaning of the provision by casting the scope of the concluding prepositional phrase into question.</p>
721.243(d)(6)	<p>JCAR: Change “remedy as are deemed necessary” to “remedies as are deemed necessary.”</p>	<p>The text of corresponding 40 C.F.R. 261.43(d)(6) uses singular “remedy,” so the Board will change the verb “is” to plural “are” for noun-verb tense agreement.</p>
721.243(e)(1)(A)(i)	<p>JCAR: Change “ratio of total liabilities to net worth less than 2:0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5” to “ratio of total liabilities to net worth less than 2:0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0:1; and a ratio of current assets to current liabilities greater than 1:5.”</p>	<p>The ratios appear in proposed text presents the in the same format that appears in corresponding 40 C.F.R. 261.143(e)(1)(i)(A). That format presents the ratio as a quotient, which is a permissible format, even though the format “2.0:1,” “0.1:1,” and “1.5:1” is the more common format. The ratios “2:0,” “0:1,” and 1:5” suggested by JCAR represent different ratios.</p>

721.243(e)(2) “current cost estimates”	JCAR: Moved the comma after “estimates” outside the closing quotation mark.	The Board ascribes to the American rule, which requires placement of all commas and periods within the closing quotations marks.
721.243(e)(2) “current plugging and abandonment cost estimates”	JCAR: Moved the comma after “estimates” outside the closing quotation mark.	The Board ascribes to the American rule, which requires placement of all commas and periods within the closing quotations marks.
721.243(e)(3)(C)	JCAR: Change “data which shows that” to “data showing that.”	The Board prefers to use “which” for a restrictive relative clause that already contains “that,” than to use the gerund-participle “showing.”
721.243(e)(8)	JCAR: Change “the Agency must disallow use . . . where the Agency determines” to “the Agency must disallow use . . . when the Agency determines.”	The word is used in a situational sense, rather than in the sense of an occurrence, making “where” more appropriate than “when.”
721.243(h)(2)(D)	JCAR: Add a comma before “which”; change “time required to remove . . . materials for recycling and decontaminate all units” to “time required to remove . . . materials for recycling and to decontaminate all units.”	The Board changed “which” to “that” for a restrictive relative clause, rather than add a comma for a non-restrictive relative clause. The language of corresponding 40 C.F.R. 261.143(h)(2)(D) (which should appear as 261.143(h)(2)(iv)) uses “and decontaminate,” allowing relation back to the “to” in “to remove.” Adding “to” before “decontaminate” does not further clarify the language.
721.247(a)(1)(B)	JCAR: Change “insurer that is licensed . . . or which is eligible” to “insurer that is licensed . . . or is eligible.”	The Board prefers to retain “which” for a subsequent restrictive relative clause.

721.247(a)(6)	<p>JCAR: Change “the owner or operator may not combine a financial test . . . with a guarantee where the financial statement of the owner or operator is consolidated with the financial statement of the guarantor” to “the owner or operator may not combine a financial test . . . with a guarantee in which the financial statement of the owner or operator is consolidated with the financial statement of the guarantor”;</p> <p>change “must total to at least the minimum amounts” to “must total at least the minimum amounts.”</p>	<p>The suggested change shifts the antecedent from the combination of financial tests to the guarantee. Further, the usage is in a situational sense, so that “where” is appropriate to refer to the combination of financial mechanisms. Use of the intransitive verb “total” requires use of the preposition “to.”</p>
721.247(a)(7)(C)	<p>JCAR: Change “that establishes a judgment for bodily injury or property damage caused by a[n] . . . occurrence which arose” to “that establishes a judgment for bodily injury or property damage caused by a[n] . . . occurrence that arose.”</p>	<p>The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.</p>
721.247(a) Board note	<p>JCAR: Change “include several facilities as a group where necessary” to “include several facilities as a group when necessary.”</p>	<p>The usage is in a situational sense, so that “where” is appropriate to refer to the inclusion of several facilities.</p>
721.247(b)	<p>JCAR: Change “may establish this liability coverage may be demonstrated by any of the means” to “may establish this liability coverage as demonstrated by any of the means.”</p>	<p>The Board has chosen to reword the clause to “may demonstrate this liability coverage by any of the means.”</p>
721.247(b)(1)(B)	<p>JCAR: Change “insurer that is licensed . . . or which is eligible” to “insurer that is licensed . . . or is eligible.”</p>	<p>The Board prefers to retain “which” for a subsequent restrictive relative clause.</p>

721.247(b)(6)	<p>JCAR: Change “the owner or operator may not combine a financial test . . . with a guarantee where the financial statement of the owner or operator is consolidated with the financial statement of the guarantor” to “the owner or operator may not combine a financial test . . . with a guarantee in which the financial statement of the owner or operator is consolidated with the financial statement of the guarantor”;</p> <p>change “must total to at least the minimum amounts” to “must total at least the minimum amounts.”</p>	<p>The suggested change shifts the antecedent from the combination of financial tests to the guarantee. Further, the usage is in a situational sense, so that “where” is appropriate to refer to the combination of financial mechanisms. Use of the intransitive verb “total” requires use of the preposition “to.”</p>
721.247(b)(7)(C)	<p>JCAR: Change “that establishes a judgment for bodily injury or property damage caused by a[n] . . . occurrence which arose” to “that establishes a judgment for bodily injury or property damage caused by a[n] . . . occurrence that arose.”</p>	<p>The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.</p>
721.247(a) Board note	<p>JCAR: Change “include several facilities as a group where necessary” to “include several facilities as a group when necessary.”</p>	<p>The usage is in a situational sense, so that “where” is appropriate to refer to the inclusion of several facilities.</p>
721.247(f)(3)(C)	<p>JCAR: Change “data which shows that” to “data showing that.”</p>	<p>The Board prefers to use “which” for a restrictive relative clause that already contains “that,” than to use the gerund-participle “showing.”</p>
721.247(b)(7)	<p>JCAR: Change “the Agency must disallow use . . . where the Agency determines” to “the Agency must disallow use . . . when the Agency determines.”</p>	<p>The word is used in a situational sense, rather than in the sense of an occurrence, making “where” more appropriate than “when.”</p>
721.247(g)(2)(A)	<p>JCAR: Change “where both the guarantor and the owner or operator are” to “when both the guarantor and the owner or operator are.”</p>	<p>The word is used in a situational sense, rather than in the sense of an occurrence, making “where” more appropriate than “when.”</p>

721.247(g)(2)(B)	JCAR: Change “where either the guarantor or the owner or operator is” to “when either the guarantor or the owner or operator is.”	The word is used in a situational sense, rather than in the sense of an occurrence, making “where” more appropriate than “when.”
721.247(j)(3)	JCAR: Change “where the owner or operator must” to “when the owner or operator must.”	The word is used in a situational sense, rather than in the sense of an occurrence, making “where” more appropriate than “when.”
721.Appendix Y, “total nitrogen as N”	JCAR: Underline the “4” in “4,900” in the fifth column.	The entry “4,900” reflects text on file.
721.Appendix Y, “benzo(k)fluoranthene”	JCAR: Change “2,400” to “2,4002” in the fifth column as text on file.	The entry “2,400” reflects the text on file.
721.Appendix Y, “ α,α -dimethylphenylamine”	JCAR: Remove the comma to change “ α,α ” to “ $\alpha\alpha$ ” in the first column.	The chemical nomenclature requires the comma in “ α,α .”
722.134(g)(4)(D) and (g)(4)(E)	JCAR: Move the ending conjunction “and” from subsection (g)(4)(D) to the end of subsection (g)(4)(E) and change the ending period in subsection (g)(4)(E) to a semicolon.	Corresponding 40 C.F.R. 262.34(g)(4) includes only five conditions (paragraphs (a)(4)(i) through (a)(4)(v)), which the Board has codified as subsections (a)(4)(A) through (a)(4)(E). The Board moved the recordkeeping requirements applicable to containment buildings, which USEPA codified as paragraphs (g)(4)(i)(C)(1) through (g)(4)(i)(C)(5) to appear in added subsection (g)(4)(F), as subsections (g)(4)(F)(i) through (g)(4)(F)(v). Listing subsection (g)(4)(F) as a separate condition would deviate from USEPA’s structure, changing the subordinate provision into a coordinate provision, and could have a substantive impact on the meaning of the recordkeeping requirement.
722.300 “eligible academic entity”	JCAR: Change “institute that is owned by or which has a formal written affiliation agreement with” to “institute that is owned by or that has a formal written affiliation agreement with.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.

722.300 “formal written affiliation agreement”	JCAR: Change “written document that establishes a relationship . . . and which is signed” to “written document that establishes a relationship . . . and that is signed”; move the comma after “agreement” outside the closing quotation mark; move the comma after “Terms” outside the closing quotation mark.	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause. The Board follows the American rule, which requires placement of periods and commas within closing quotation marks.
722.300 “laboratory clean-out”	JCAR: Change “chemicals and other materials . . . that are no longer needed or which have expired” to “chemicals and other materials . . . that are no longer needed or that have expired.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
722.300 “non-profit research institute”	JCAR: Change “organization that conducts research . . . and which files as a nonprofit organization” to “organization that conducts research . . . and that files as a nonprofit organization.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
722.300 “unwanted material”	JCAR: Change “material from a laboratory that is no longer needed, wanted, or usable . . . and which is destined for hazardous waste determination” to “material from a laboratory that is no longer needed, wanted, or usable . . . and that is destined for hazardous waste determination”; move the comma after “material” outside the closing quotation mark.	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause. The Board follows the American rule, which requires placement of periods and commas within closing quotation marks.
722.303(a) Board note	JCAR: Move the period after “(EPA Form 8700-12)” outside the closing quotation mark; move the period after “Activity” outside the closing quotation mark.	The Board follows the American rule, which requires placement of periods and commas within closing quotation marks.
722.303(b) numbered paragraph “6.”	JCAR: Change “Code(s)” to “Code or Codes.”	The Board would normally change this to “Codes,” but the segment of text is within quotation marks as the item heading in USEPA From 8700-12.

722.304(a) Board note	JCAR: Move the period after “(EPA Form 8700-12)” outside the closing quotation mark; move the period after “Activity” outside the closing quotation mark.	The Board follows the American rule, which requires placement of periods and commas within closing quotation marks.
722.303(b) numbered paragraph “6.”	JCAR: Change “Code(s)” to “Code or Codes.”	The Board would normally change this to “Codes,” but the segment of text is within quotation marks as the item heading in USEPA From 8700-12.
722.305	JCAR: Remove the comma from before “and the eligible academic entity has”; change “Laboratory Management Plan (LMP) that complies with Section 722.314 which describes” to “Laboratory Management Plan (LMP) that complies with Section 722.314 that describes.”	The comma offsets an independent clause; the Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
722.306(a)(1)(A)	JCAR: Move the period after “material” outside the closing quotation mark.	The Board follows the American rule, which requires placement of periods and commas within closing quotation marks.
722.306(b)	JCAR: Change “a way that assures safe storage of the unwanted material and which prevents . . . dangerous situations that may result in harm” to “a way that assures safe storage of the unwanted material and that prevents . . . dangerous situations that may result in harm.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
722.306(c)	JCAR: Change “documentation which is sufficient to demonstrate that” to “documentation that is sufficient to demonstrate that”; change “documentation which demonstrates that” to “documentation that demonstrates that.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the successive restrictive relative clauses.

722.312(e)(1)	JCAR: Change “on the container label that is affixed or attached to the container (or on the label that is affixed or attached to the container, if that is preferred)” to “on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred).”	Sections 722.310(b)(1) and 722.311(e)(1) (and corresponding 40 C.F.R. 262.210(b)(1) and 262.211(e)(1)) require marking “hazardous waste” on the label attached or affixed to the container. The Board has instead eliminated the redundant parenthetical “(or on the label that is affixed or attached to the container is that is preferred).”
722.313(a)(2)	JCAR: Change “hazardous waste that is an unused commercial chemical product . . . or which exhibits one or more of the characteristics” to “hazardous waste that is an unused commercial chemical product . . . or that exhibits one or more of the characteristics.”; change “material that is generated . . . and which is still in the laboratory” to “material that is generated . . . and that is still in the laboratory.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
722.314	JCAR: Change “for all of the laboratories that it owns which have opted into this Subpart K” to “for all of the laboratories that it owns that have opted into this Subpart K.”	The Board’s usage avoids repetitive use of “that” in the sentence by use of “which” for the subsequent restrictive relative clause.
722.306(a)(1)(A)	JCAR: Move the period after “material” outside the closing quotation mark; move the comma after “material” outside the closing quotation mark.	The Board follows the American rule, which requires placement of periods and commas within closing quotation marks. (The Board followed the suggestion with regard to the semicolon in the third cited quotation.)

HISTORY OF RCRA SUBTITLE C AND UIC ADOPTION
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY OR BOARD ACTION
EDITORIAL CONVENTIONS

It has previously been the practice of the Board to include an historical discussion in its RCRA Subtitle C and UIC identical-in-substance rulemaking proposals. However, in the last RCRA Subtitle C update docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 1999

through December 31, 1999), R00-13 (May 18, 2000), the Board indicated that it would cease this practice. Therefore, for a complete historical summary of the Board's RCRA Subtitle C and UIC rulemakings and programs, interested persons should refer back to the May 18, 2000 opinion and order in R00-13.

The historical summary contains all Board actions taken to adopt and maintain these programs since their inception and until May 18, 2000. It includes a listing of all site-specific rulemaking and adjusted standards proceedings filed that relate to these programs. It also lists all USEPA program authorizations issued during that timeframe. As necessary the Board will continue to update the historical summary as a segment of the opinion in each RCRA Subtitle C and UIC update docket, but those opinions will not repeat the information contained in the opinion of May 18, 2000, in docket R00-13.

The following summarizes the history of the Illinois RCRA Subtitle C hazardous waste and UIC programs since May 18, 2000:

History of RCRA Subtitle C and State Hazardous Waste Rules Adoption

The Board has adopted and amended the RCRA Subtitle C hazardous waste rules in the following docket since May 18, 2000:

- R00-13 RCRA Subtitle C Update, USEPA Regulations (July 1, 1999 through December 31, 1999), R00-13 (May 18, 2000); published at 24 Ill. Reg. 9443 (July 7, 2000), effective June 20, 2000.
- R01-3 RCRA Subtitle C Update, USEPA Regulations (January 1, 2000 through June 30, 2000), R01-3 (Dec. 7, 2000); published at 25 Ill. Reg. 1266 (Jan. 26, 2001), effective January 11, 2001.
- R01-23 RCRA Subtitle C Update, USEPA Regulations (July 1, 2000 through December 31, 2000), R01-23 (May 17, 2001); published at 25 Ill. Reg. 9108 (July 20, 2001), effective July 9, 2001. (Consolidated with UIC update docket R01-21.)
- R02-1 RCRA Subtitle C Update, USEPA Regulations (January 1, 2001 through June 30, 2001), R02-1 (Apr. 18, 2002); published at 26 Ill. Reg. 6667 (May 3, 2002), effective April 22, 2002. (Consolidated with RCRA Subtitle C Update docket R02-12 and UIC Update docket R02-17.)
- R02-12 RCRA Subtitle C Update, USEPA Regulations (July 1, 2001 through December 31, 2001), R02-12 (Apr. 18, 2002); published at 26 Ill. Reg. 6667 (May 3, 2002), effective April 22, 2002. (Consolidated with RCRA Subtitle C Update docket R02-1 and UIC Update docket R02-17.)

- R03-7 RCRA Subtitle C Update, USEPA Regulations (January 1, 2002 through June 30, 2002), R03-7 (Jan. 9, 2003); published at 27 Ill. Reg. 3496, effective February 14, 2003.
- R03-18 RCRA Subtitle C Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-7 (June 5, 2003); published at 27 Ill. Reg. 12683, effective July 17, 2003.
- R04-6 RCRA Subtitle C Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-6 (Aug. 7, 2003). (Dismissed because no federal actions in the period.)
- R04-16 RCRA Subtitle C Update, USEPA Regulations (July 1, 2003 through December 31, 2003), R04-16 (Apr. 1, 2004); published at 28 Ill. Reg. 10693, effective July 19, 2004.
- R05-2 RCRA Subtitle C Update, USEPA Regulations (January 1, 2004 through June 30, 2004 and October 25, 2004), R05-2 (Mar. 3, 2005); published at 29 Ill. Reg. 6290, effective April 22, 2005.
- R05-13 RCRA Subtitle C Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-13 (Feb. 3, 2005) (Dismissed because no federal actions in the period.)
- R06-7 RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-7 (Jan. 5, 2006 and Feb. 2, 2006); published at 30 Ill. Reg. 2845, effective February 23, 2006. (Consolidated with UIC Update docket R06-5 and RCRA Subtitle D Update docket R06-6.)
- R06-18 RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006); published at 31 Ill. Reg. 438, effective December 20, 2007. (Consolidated with UIC Update docket R06-5 and RCRA Subtitle D Update docket R06-7.)
- R07-5 RCRA Subtitle C Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R07-5, R07-14 (June 5, 2008); published at 32 Ill. Reg. 11672, effective July 14, 2008. (Consolidated with RCRA Subtitle C Update docket R07-14.)
- R07-14 RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R07-14 (June 5, 2008); published at 32 Ill. Reg. 11672, effective July 14, 2008. (Consolidated with RCRA Subtitle C Update docket R07-5.)

- R08-3 RCRA Subtitle C Update, USEPA Regulations (January 1, 2007 through June 30, 2007), R08-3 (Sep. 6, 2007). (Dismissed because no federal actions in the period.)
- R08-16 RCRA Subtitle C Update, USEPA Regulations (July 1, 2007 through December 31, 2007), R08-16 (May 1, 2008). (Dismissed because no federal actions in the period.)
- R09-3 RCRA Subtitle C Update, USEPA Regulations (January 1, 2008 through June 30, 2008), R09-3 (Nov. 20, 2008); published at 33 Ill. Reg. 922, effective December 30, 2008.
- R09-16 RCRA Subtitle C Update, USEPA Regulations (July 1, 2008 through December 31, 2008), R09-16. (This docket.) (Consolidated with RCRA Subtitle C Update docket R10-4.)
- R10-4 RCRA Subtitle C Update, USEPA Regulations (January 1, 2009 through June 30, 2009), R10-4. (This docket.) (Consolidated with RCRA Subtitle C Update docket R09-16.)
- R10-13 RCRA Subtitle C Update, USEPA Regulations (July 1, 2009 through December 31, 2009), R09-3 (Apr. 1, 2010). (Dismissed because no federal actions in the period.)
- R11-2 RCRA Subtitle C Update, USEPA Regulations (January 1, 2010 through June 30, 2010), R11-2. (Reserved docket.)

The Board has taken other actions since May 18, 2000 relating to administration of the Illinois hazardous waste program. The Board has received the following petitions for a solid waste determination:

- AS 01-7 In re Petition of Progressive Environmental Services, Inc. for an Adjusted Standard under 35 Ill. Adm. Code 720.131(c), AS 02-7 (Jan. 10, 2002) (granted as to used automotive antifreeze).
- AS 02-2 In re Petition of World Recycling, Inc. d/b/a Planet Earth Antifreeze for an Adjusted Standard under 35 Ill. Adm. Code 720.131, AS 02-2 (May 2, 2002) (granted as to used automotive antifreeze).
- AS 06-4 In re Petition of Big River Zinc Corp. for an Adjusted Standard under 35 Ill. Adm. Code 720.131(c), AS 06-4 (May 2, 2002) (granted as to EAFD (K061 waste) used in a zinc recycling process).
- AS 08-9 In re Petition of Big River Zinc Corp. for and Adjusted Standard Under 35 Ill. Adm. Code 721.131(c), AS 08-9 (Sep. 4, 2008) (granted revision of the

solid waste determination made in *In re* Petition of Big River Zinc Corp. for and Adjusted Standard Under 35 Ill. Adm. Code 721.131(c), AS 99-3 (May 6, 1999) as to zinc oxide raw material containing EAFD (K061 waste))).

The Board has considered petitions since May 18, 2000 for hazardous waste delisting:

- AS 05-3 *In re* Petition of Waste Management of Illinois, Inc. for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122 for Solid Treatment Residual for CID Recycling and Disposal Facility Biological Liquid Treatment Center, AS 05-3 (Mar. 17, 2005) (dismissed for lack of proof of timely publication and for deficiencies in the petition; relating to lime-conditioned filter cake from the treatment of hazardous and non-hazardous leachates and wastewaters (F001, F002, F003, F004, F005, F039, U202, U210, U220, and U228 wastes).
- AS 05-7 *In re* Petition of Waste Management of Illinois, Inc. for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122 for Solid Treatment Residual for CID Recycling and Disposal Facility Biological Liquid Treatment Center, AS 05-7 (Dec. 15, 2005) (denied as to lime-conditioned filter cake from the treatment of hazardous and non-hazardous leachates and wastewaters (F001, F002, F003, F004, F005, F039, U202, U210, U220, and U228 wastes).
- AS 06-2 *In re* Petition of BP Products North America, Inc. for RCRA Waste Delisting Pursuant to 35 Ill. Adm. Code 720.122, AS 06-2 (Mar. 2, 2006) (dismissed for lack of proof of timely publication; relating to leachate from a landfill containing dissolved air floatation float (K048 waste)).
- AS 07-1 *In re* Petition of BP Products North America, Inc. for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122, AS 07-1 (Feb. 15, 2007) (denied as to leachate from a landfill containing dissolved air floatation float (K048 waste)).
- AS 08-5 *In re* Petition of BFI Waste Systems of North America, Inc. for Waste Delisting, AS 08-5 (Dec. 4, 2008) (granted delisting as to landfill leachate (F039 waste)).
- AS 08-10 *In re* RCRA Delisting Adjusted Standard Petition of Peoria Disposal Co., AS 08-10 (Jan. 8, 2009) (granted delisting as to stabilized EAFD (K061 waste)).

The Board has heard petitions since May 18, 2000 for boiler designations for burning off-specification oil for energy recovery:

- AS 06-1 *In re* Petition of LaFarge Midwest, Inc. for Boiler Determination Pursuant to 35 Ill. Adm. Code 720.132 and 720.133, AS 06-1 (Apr. 20, 2006) (granted as to a slag dryer).
- AS 06-3 *In re* Petition of LaFarge Midwest, Inc. for Boiler Determination Through Adjusted Standard Proceedings Pursuant to 35 Ill. Adm. Code 720.132 and 720.133, AS 06-3 (June 1, 2006) (granted as to two raw mill dryers).

The Board has granted relief since May 18, 2000 from a permit requirement applicable to HWM facility:

- AS 00-14 *In re* Petition of Heritage Environmental Services, LLC. for an Adjusted Standard from 35 Ill. Adm. Code 702.126(d)(1), AS 00-14 (June 8, 2000) (dismissed for lack of proof of timely publication; relating to alternative permit application certification language).
- AS 00-15 *In re* Petition of Heritage Environmental Services, LLC. for an Adjusted Standard from 35 Ill. Adm. Code 702.126(d)(1), AS 00-15 (Feb. 1, 2001) (alternative permit application certification language).

History of UIC Rules Adoption

The Board has adopted and amended Underground Injection Control (UIC) regulations in the following dockets since May 18, 2000:

- R00-11 UIC Update, USEPA Regulations (July 1, 1999 through December 31, 1999), R00-11 (Dec. 7, 2000); published at 25 Ill. Reg. 18585 (December 22, 2001), effective December 7, 2001. (Consolidated with docket R01-1.)
- R01-1 UIC Update, USEPA Regulations (Jan. 1, 2000 through June 30, 2000), R01-1 (Dec. 7, 2000); published at 25 Ill. Reg. 18585 (Dec. 22, 2001), effective December 7, 2001. (Consolidated with docket R00-11.)
- R01-21 UIC Update, USEPA Regulations (July 1, 2000 through December 31, 2000), R01-21 (May 17, 2001); published at 25 Ill. Reg. 9108 (July 20, 2001), effective July 9, 2001. (Consolidated with UIC update docket R01-23.)
- R02-17 UIC Update, USEPA Regulations (July 1, 2001 through December 31, 2001), R02-17 (Apr. 18, 2002); published at 26 Ill. Reg. 6667 (May 3, 2002), effective April 22, 2002. (Consolidated with RCRA Subtitle C Update dockets R02-1 and R02-12.)

- R03-5 UIC Update, USEPA Regulations (January 1, 2002 through June 30, 2002), R03-5 (Aug. 8, 2002). (Dismissed because no federal actions in the period.)
- R03-16 UIC Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-16 (Feb. 6, 2003). (Dismissed because no federal actions in the period.)
- R04-4 UIC Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-4 (Aug. 7, 2003). (Dismissed because no federal actions in the period.)
- R04-14 UIC Update, USEPA Regulations (July 1, 2003 through December 31, 2003), R04-14 (Mar. 4, 2004). (Dismissed because no federal actions in the period.)
- R05-7 UIC Update, USEPA Regulations (January 1, 2004 through June 30, 2004), R05-7 (Sept. 16, 2004). (Dismissed because no federal actions in the period.)
- R05-18 UIC Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-18 (Feb. 3, 2005). (Dismissed because no federal actions in the period.)
- R06-5 UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-5 (Jan. 5, 2006 and Feb. 2, 2006); published at 30 Ill. Reg. 2845, effective February 23, 2006. (Consolidated with RCRA Subtitle D Update docket R06-6 and RCRA Subtitle C Update docket R06-7.)
- R06-16 UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16 (Nov. 16, 2006); published at 31 Ill. Reg. 438, effective December 20, 2007. (Consolidated with RCRA Subtitle D Update docket R06-17 and RCRA Subtitle C Update docket R06-18.)
- R07-3 UIC Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R07-3 (Sep. 21, 2006). (Dismissed because no federal actions in the period.)
- R07-12 UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R07-12 (Feb. 1, 2007). (Dismissed because no federal actions in the period.)
- R08-1 UIC Update, USEPA Regulations (January 1, 2007 through June 30, 2007), R08-1 (Sep. 6, 2007) (Dismissed because no federal actions in the period.)

- R08-14 UIC Update, USEPA Regulations (July 1, 2007 through December 31, 2007), R08-14 (Mar. 6, 2008). (Dismissed because no federal actions in the period.)
- R09-1 UIC Update, USEPA Regulations (January 1, 2008 through June 30, 2008), R09-1 (Aug. 21, 2008) (Dismissed because no federal actions in the period.)
- R09-14 UIC Update, USEPA Regulations (July 1, 2008 through December 31, 2008), R09-14 (Feb. 19, 2009). (Dismissed because no federal actions in the period.)
- R10-2 UIC Update, USEPA Regulations (January 1, 2009 through June 30, 2009), R10-2 (Aug. 20, 2009) (Dismissed because no federal actions in the period.)
- R10-11 UIC Update, USEPA Regulations (July 1, 2009 through December 31, 2009), R10-11 (Apr. 1, 2010). (Dismissed because no federal actions in the period.)
- R11-1 UIC Update, USEPA Regulations (January 1, 2010 through June 30, 2010), R11-1 (Aug. 5, 2010). (Dismissed because no federal actions in the period.)

The Board has received petitions for a “no migration determination” to allow the continued underground injection of hazardous waste:

- AS 07-6 *In re* Petition of Cabot Corporation for Adjusted Standard from 35 Ill. Adm. Code 738.Subpart B (Oct. 7, 2010), AS 07-6. (granted modification of the exemption granted in Petition of Cabot Corporation for Adjusted Standard from 35 Ill. Adm. Code 738.Subpart B (Mar. 7, 1996), AS 96-3 to allow continued injection of D002, F003, and F039 wastes until December 31, 2027).
- AS 07-5 *In re* Petition of Cabot Corporation for Adjusted Standard from 35 Ill. Adm. Code 738.Subpart B (May 17, 2007), AS 07-5. (dismissed for lack of proof of timely publication; relating to modification of the exemption granted in Petition of Cabot Corporation for Adjusted Standard from 35 Ill. Adm. Code 738.Subpart B (Mar. 7, 1996), AS 96-3 as to injection of D002, F003, and F039 wastes).

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion on October 7, 2010, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board