

ILLINOIS POLLUTION CONTROL BOARD
December 18, 2014

IN THE MATTER OF:)
RCRA SUBTITLE C UPDATE, USEPA) R15-1
AMENDMENTS (January 1, 2014 through) (Identical-in-Substance
June 30, 2014)) Rulemaking - Land

Adopted Rule. Final Order.

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

SUMMARY OF TODAY'S ACTION

This opinion and accompanying order adopt amendments that update the Illinois hazardous waste regulations to include amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of calendar year 2014. During this time USEPA undertook four actions with regard to the federal hazardous waste regulations: (1) excluded carbon dioxide streams from the definition of hazardous waste; (2) adopted new requirements to establish an electronic manifest system on February 7, 2014; (3) corrected an error in the July 1, 2013 version of the *Code of Federal Regulations* on June 20, 2014; and (4) revised export provisions for used, intact cathode ray tubes (CRTs) on June 26, 2014. The Board is taking action in this docket on the February 7, 2014 and June 26, 2014 USEPA actions. As is explained below no Board action is required on the USEPA actions of January 3, 2014 and June 20, 2014.

This is an identical-in-substance rulemaking to incorporate revisions to the federal hazardous waste regulations into the Illinois hazardous waste regulations. Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2012)) 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.* (2011)). 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. USEPA adopted the underlying federal hazardous waste amendments during the time period of January 1, 2014 through June 30, 2014.

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 (2012)) do not apply to the Board's adoption of identical-in-substance regulations.

This opinion and order adopts identical-in-substance amendments to 35 Ill. Adm. Code 720 through 725. This opinion and order also makes limited non-substantive corrections and stylistic revisions to segments of the text that are not otherwise affected by the covered federal amendments.

The Board will withhold filing the present amendments with the Office of the Secretary of State for 30 days after the date of this opinion and order to allow USEPA to review the

adopted amendments before filing them. The Board presently intends to file the adopted amendments on or before the statutory due date of February 7, 2015.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

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

Docket R15-1: January 1, 2014 through June 30, 2014 Amendments

USEPA amended the federal hazardous waste regulations four times during the period January 1, 2014 through June 30, 2014. The USEPA actions that require corresponding amendments to the Illinois regulations are summarized below:

January 3, 2014 (79 Fed. Reg. 350): Exception from Regulation as Hazardous Waste for Carbon Dioxide Streams That Are Injected into Class VI Injection Wells for Carbon Sequestration

Description of the USEPA action: USEPA adopted a conditional exclusion from regulation as hazardous waste for carbon dioxide streams recovered from fossil-fuel fired emission units. The carbon dioxide stream must be injected into a Class VI carbon sequestration well.

Necessary Board action in response: The Board included this action in the prior docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 2013 through December 31, 2013 and January 3, 2014, R14-13 (Apr. 17, 2014). No further Board action is necessary.

February 7, 2014 (79 Fed. Reg. 7518): Electronic Hazardous Waste Manifest Rule

Description of the USEPA action: USEPA adopted a rule that provides for the voluntary use of an electronic hazardous waste manifest system in lieu of paper manifests.

Necessary Board action in response: The Board must amend the Illinois hazardous waste regulations to include the federal electronic manifest system requirements.

June 20, 2014 (79 Fed. Reg. 35290): Correction to the Code of Federal Regulations

Description of the USEPA action: USEPA corrected 40 C.F.R. 261.3(a)(2)(v) in the July 1, 2013 version of the *Code of Federal Regulations* by reinstating the text of subsections (a)(2)(v)(A) and (a)(2)(v)(B).

Necessary Board action in response: No Board action is necessary because the text formerly omitted from the federal rule currently exists in the Illinois regulations as 35 Ill. Adm. Code 721.103(a)(2)(E)(i) and (a)(2)(E)(ii).

June 26, 2014 (79 Fed. Reg. 36220): Amendment of Used, Intact CRT Export Requirements

Description of the USEPA action: USEPA amended the cathode ray tube (CRT) rule, a conditional exemption from the definition of solid waste for CRTs that are reused or recycled. The amendments will require activity notifications and annual reports by CRT exporters. USEPA stated that the amendments will allow USEPA to better track exports of CRTs for reuse and recycling to ensure their safe management. Provisions relating to domestic management of CRTs are not affected by the amendments.

Necessary Board action in response: The Board must incorporate the USEPA revisions into the Illinois CRT rule, which conditionally excludes used and waste CRTs from regulation as hazardous waste.

No Later RCRA Subtitle C (Hazardous Waste) Amendments of Interest

The Board engages in ongoing monitoring of federal actions. As of the date of this opinion and accompanying order, the Board has identified no USEPA action since June 30, 2014 that further affected the RCRA Subtitle C hazardous waste rules in a way that warrants immediate Board attention.

Summary Listing of the Federal Actions Upon Which Action is Required in This Docket

Based on the foregoing, the two federal actions that form the basis for Board action in this update docket are the following, listed in chronological order:

Federal Action Date (citation)	Description of the Action
February 7, 2014 (79 Fed. Reg. 7518)	Electronic Hazardous Waste Manifest Rule
June 26, 2014 (79 Fed. Reg. 36220)	Amendment of Used, Intact CRT Export Requirements

Other Federal Actions Having a Direct Impact on the Illinois RCRA Subtitle C Regulations

In addition to the amendments to the federal RCRA Subtitle C regulations, amendments to certain other federal regulations occasionally have an effect on the Illinois hazardous waste rules. Most notably, 35 Ill. Adm. Code 720.111(b) includes several incorporations of federal regulations by reference. The incorporated regulations include segments of various USEPA environmental regulations, Nuclear Regulatory Commission (NRC) rules, and United States Department of Transportation (USDOT) hazardous materials transportation regulations that USEPA has incorporated into the federal hazardous waste rules.

The text of the rules also includes citations to federal rules that are not incorporations by reference. Principally, these are citations to the federal source of the segment of the regulations to which the citation is appended. All citations to the *Code of Federal Regulations* throughout the hazardous waste rules are dated with a C.F.R. edition, without regard to whether the citation involves incorporation by reference or not.

PUBLIC COMMENTS

The Board adopted a proposal for public comment in this matter on October 16, 2014. Notices of Adopted Amendments appeared in the October 31, 2014 issue of the *Illinois Register*, at 38 Ill Reg. 20376 (Part 720), 20441 (Part 721), 20534 (Part 722), 20545 (Part 723), 20558 (Part 724), and 20580 (Part 725). The Board received public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*, until December 15, 2014.

The Board received no public comments on the proposal during the public comment. Instead, the Board received documents from JCAR that included a limited number of suggested corrections. Table 3 at the end of the opinion segment of this opinion and order indicates the changes made by the Board based on JCAR's suggestions. Table 4, also at the end of this opinion segment, indicates the limited number of JCAR suggestions that the Board has not accepted, reciting a brief explanation for not accepting each suggestion.

The Board will delay filing any 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.

DISCUSSION

The following discussion begins with a series of two substantive discussions of the federally derived amendments involved in this docket. A discussion of Board-initiated corrections and clarifying amendments follows discussion of the federal amendments. This series is organized by federal subject matter, appearing in chronological order of the relevant *Federal Register* notices involved. The discussion concludes with a description of the types of deviations that the Board makes from the literal text of federal regulations in adopting identical-in-substance rules.

Discussion of the Particular Federal Actions Involved in This Docket

Modification of the Hazardous Waste Manifest System to Accommodate Use of an Electronic Manifest System—Sections 720.102, 720.110, 720.120, 722.124, 722.125, 723.120, 723.125, 724.171, and 725.171

On February 7, 2014 (79 Fed. Reg. 7518), USEPA modified the federal hazardous waste manifest provisions. The modifications accommodate the future use of a national electronic manifest system (called the e-Manifest System) pursuant to the Hazardous Waste Electronic Manifest Establishment Act, Pub. L. 112-195, 126 Stat. 1452 (Oct. 5, 2012).

The e-Manifest System will allow hazardous waste generators the option of using an electronic manifest in lieu of a paper manifest for shipments of waste that require use of a manifest. 79 Fed. Reg. at 7521. The e-Manifest System is an offshoot of the existing Cross-Media Electronic Reporting Regulation (CROMERR), which USEPA adopted in 2005.¹ See 70 Fed. Reg. 59848 (Oct. 13, 2005). The CROMERR established performance standards for systems that collect electronic documents in lieu of paper, including electronic signatures. 79 Fed. Reg. at 7530-33.

The e-Manifest System does not yet exist.² USEPA will soon begin the procurement process for the building of the System. USEPA said that it currently intends to host the system on its Central Data Exchange (CDX)/National Environmental Information Exchange Network. USEPA will operate the e-Manifest System. USEPA will initially implement the use of electronic manifests. It is possible, however, that USEPA may ultimately allow authorized states to implement the E-Manifest program.³ *Id.* at 7523-24.

The e-Manifest System will be a fee-for-use system. Users must pay a fee to use the system. The fees are intended to defray the costs and to ensure continued vitality of the System. Section 2(e)(3)(C) and (e)(4) of the Hazardous Waste Electronic Manifest Establishment Act, Pub. L. 112-195, 126 Stat. 1452, 1455-56 (Oct. 5, 2012). USEPA will codify the fee structure as an appendices to the hazardous waste generator standards of 40 C.F.R. 262 and the hazardous waste transporter requirements of 40 C.F.R. 263. 40 C.F.R. 262.24(g) and 263.20(a)(8), as added at 79 Fed. Reg. at 7559-60.

Two limitations on use of the e-Manifest System are worthy of note. No generator can initiate shipment using the System, unless “it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.” 40 C.F.R. 262.24(c), as added at 79 Fed. Reg. at 7558-59. The other limitation is that no person can make a claim of confidentiality for any information on an electronic manifest. 40 C.F.R. 260.2(c)(1), as added at 79 Fed. Reg. at 7558.

¹ Codified as 40 C.F.R. 3. The Board incorporated elements of CROMERR into the Illinois hazardous waste, municipal solid waste landfill, and underground injection control regulations in UIC Update, USEPA Amendments (July 1, 2005 through December 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Amendments (July 1, 2005 through December 31, 2005), R06-17, RCRA Subtitle C Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006).

² 42 U.S.C. § 3024(g)(1)(A), as added by the Hazardous Waste Electronic Manifest Establishment Act, Pub. L. 112-195, 126 Stat. 1452 (Oct. 5, 2012), required USEPA to establish rules that authorize use of electronic manifests by October 5, 2013. Section 3024(b), also as added, requires USEPA to establish an e-Manifest system by October 5, 2015. See 79 Fed. Reg. at 7522.

³ USEPA stated that it initially envisioned a series of e-Manifest systems run by private contractors. The final rule, however, contemplates use of a national, centralized system. See 79 Fed. Reg. at 7526; 66 Fed. Reg. 28240, 28268 (May 22, 2001).

Implementing the e-Manifest System will not totally eliminate hard-copy shipping papers that bear physical signatures. U.S. Department of Transportation (USDOT) hazardous materials (Hazmat) transportation regulations require that hard-copy shipping papers must accompany all consignments of hazardous materials. They further require that physical signatures appear on the shipping papers, except that electronic signatures are allowed for shipments by rail.. 49 C.F.R. 172.204(a) and (a)(3)(ii) (2013); 79 Fed. Reg. at 7526. Hazardous waste is defined by USDOT Hazmat transportation regulations as a “hazardous material” and a “hazardous substance.” 49 C.F.R. 171.8 (2013) (definitions of “hazardous material” and “hazardous waste”); table to 49 C.F.R. 172.101 (2013) (hazardous materials table); table 1 in appendix A to 49 C.F.R. 172.101 (listing of hazardous substances). Thus, all shipments of hazardous waste are governed by USDOT Hazmat transportation requirements. *See* 49 C.F.R. 171.3 (2013).

The Board has incorporated the new e-Manifest provisions into the Illinois regulations without substantive review of the federal exclusions. The foregoing discussion is intended to aid understanding of the federal action that the Board now incorporates into the Illinois rules. Persons wishing to explore the substance of the USEPA corrections and clarifications should refer to the appropriate *Federal Register* notices. The Board’s purpose here is to ensure that the Illinois regulations are identical-in-substance to their federal counterparts.

The Board has made minor revisions to the federal language to enhance clarity, correct errors, and adapt the federal language to the Board’s preferred style and to *Illinois Administrative Code* codification requirements. All of the revisions made by the Board are itemized and briefly described in Table 1, which is appended at the end of the opinion segment of this opinion and order. Most are not discussed in this opinion. Brief discussion of a limited number of the revisions follows.

Standardized Use of Defined Terms. USEPA added definitions of the key terms “electronic manifest,” “electronic manifest system,” and “user of the electronic manifest system.” USEPA defined “e-Manifest” as the short form of “electronic manifest” and e-Manifest System” as the short form of “electronic manifest system.” USEPA does not use the defined abbreviation “e-Manifest” anywhere in the text of the federal amendments, and USEPA uses the defined long-form, “electronic manifest system,” the defined short-form, “e-Manifest system” (never capitalized “system” as in the definition), and “system” to refer to the e-Manifest System.

The Board has changed all references to “electronic manifest” in the text to the defined short-form “e-Manifest.” The Board has retained the long-form “electronic manifest” only in Section headings. The Board has changed all references to “electronic manifest system” and “e-Manifest system” to the defined short-form term “e-Manifest System.” Capitalization in USEPA’s definition implies that USEPA intended the term to be a proper noun for which capitalization is more appropriate in the text of the rules.

USEPA defined the term “user of the electronic manifest system.” In various segments of the rules, USEPA uses the terms “user or the electronic manifest” and “user of the electronic manifest format.” The Board has added the alternative short-form defined term “user of the e-Manifest System” for consistency with the definitions of “e-Manifest” and “e-Manifest System.” The Board has used this short-form defined term where USEPA used “user of the electronic manifest” or “user of the electronic manifest format.”

Revised Structure of a Definition. The federal definition of “user of the electronic manifest system” is unusual, and it is potentially confusing. The definition includes two levels of numbered subsections, and the conjunctions used to link the subsections are potentially misleading. The federal definition states as follows:

User of the electronic manifest system means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that:

- (1) Is required to use a manifest to comply with:
 - (i) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or
 - (ii) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and
- (2) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system, or
- (3) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with § 264.71(a)(2)(v) or § 265.71(a)(2)(v) of this chapter. These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

The use of the structure paragraph (1) and paragraph (2) or paragraph (3) is ambiguous. It is possible to infer from USEPA’s use of a semicolon at the end of paragraph (1) and a comma at the end of paragraph (2) that USEPA intended that fulfillment of paragraph (1) is required in conjunction with fulfillment of either paragraph (2) or paragraph (3). This is supported by USEPA’s discussion of the definition as derived from a statutory definition.

USEPA based its definition of “user of the electronic manifest system” on the statutory definition of “user.” *See* 79 Fed. Reg. at 7524. The statutory definition reads as follows:

(5) USER.—The term “user” means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that—

- (A) is required to use a manifest to comply with any Federal or State requirement to track the shipment, transportation, and receipt of hazardous waste or other material that is shipped from the site of generation to an off-site facility for treatment, storage, disposal, or recycling; and

(B)(i) elects to use the system to complete and transmit an electronic manifest format; or

(ii) submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with such regulations as the Administrator may promulgate to require such a submission. 42 U.S.C. § 6939g(a)(5), as added by the Hazardous Waste Electronic Manifest Establishment Act, Pub. L. 112-195, § 2(a), 126 Stat. 1452-53 (2012).

The two subsidiary paragraphs numbered (B)(i) and (B)(ii) in the statutory definition of “user” appear as paragraphs (2) and (3) in USEPA’s regulatory definition of “user of the electronic manifest system.” This indicates that USEPA intended paragraphs (2) and (3) to appear as individually coordinate with paragraph (1) in the regulatory definition, which is derived from paragraph (A) in the statutory definition of “user.” In the statutory text, what appears as paragraphs (2) and (3) in USEPA’s definition are clearly alternative to one another, and fulfillment of either is required in conjunction with fulfillment of paragraph (1). Thus, the logical structure of the USEPA definition is paragraph (1) and either paragraph (2) or paragraph (3).

Aside from changing the numbered structure of the statutory definition of “user,” USEPA added an alternative in paragraph (1) of the regulatory definition. This added alternative relates to use of the e-Manifest System for tracking rejected shipments of waste to an alternative facility or back to the generator. This addition changed the logical structure of the definition to become (A1 or A2) and (B or C) while being codified as (A1 or A2) and B or C.

Were the Board free to number the individual paragraphs of the definition of “user of the electronic manifest system,” as did USEPA, resolution of the ambiguity in logical structure would be easy to accomplish. The Board could reword the end of the preamble to the definition to read as follows: “any other person or entity that fulfills either of the conditions in paragraph (1) and the condition of either paragraph (2) or paragraph (3) below.” Since this is in a definition that does not itself bear a subsection number, numbering the paragraphs of the definition would not be possible. *See* 1 Ill. Adm. Code 100.340(e).

The Board thoroughly restructured the definition, using em-dashes to indicate continuity between the several divisions. The Board divided the definition into two major subdivisions. The first major subdivision contains the condition relative to the shipper being required by law to use a manifest. The Board moved the identical statements, “any federal or state requirements to track the shipment, transportation, and receipt of,” in USEPA’s paragraphs (1)(i) and (1)(ii) as the preamble of the first major subdivision. The Board moved the rest of the text of paragraphs (1)(i) and (1)(ii) into two minor subdivisions under the first major subdivision. The second major subdivision contains the condition relative to the shipper’s choice to use the e-Manifest System. The Board moved the identical statements, “elects to use,” in USEPA’s paragraphs (2) and (3) at the preamble of the second major subdivision. The Board moved the rest of the text of paragraphs (2) and (3) into three minor subdivisions under the second major subdivision. The closing caveat at the end of paragraph (3) in USEPA’s definition appears as the third minor subdivision under the second major subdivision. This third minor subdivision pertains only to the condition in the second minor subdivision.

References to “These Regulations.” In several provisions, the federal e-Manifest rules outline the effects of using the e-Manifest System for purposes of “these regulations.” *See* 40 C.F.R. 262.24(a), (a)(1), (a)(2), and (a)(3), as added, and 40 C.F.R. 263.20(a)(4)(i), (a)(4)(ii), (a)(4)(iii), and (a)(4)(iv); 264.71(f), (f)(1), (f)(2), (f)(3), (f)(4); and 265.71(f), (f)(1), (f)(2), (f)(3), (f)(4), as amended at 79 Fed. Reg. 7518 (Feb. 7, 2014). This is vague, and the Board has replaced the several appearances of “any requirement in these regulations” with a broad citation to the substantive Illinois hazardous waste regulations: “any requirement in 35 Ill. Adm. Code 720 through 728.” *See* 35 Ill. Adm. Code 722.124(a), (a)(1), (a)(2), and (a)(3); 723.120(a)(4)(i), (a)(4)(ii), (a)(4)(iii), and (a)(4)(iv); 724.171(f), (f)(1), (f)(2), (f)(3), (f)(4); and 725.171(f), (f)(1), (f)(2), (f)(3), (f)(4). The Board made no effort to tailor these references to specific requirements.

USEPA contemplates the use of the e-Manifest System for shipments of waste for which federal or state law requires use of a manifest. The definition of “user of the electronic manifest system” contemplates use of the System where “[a]ny federal or state requirement to track the shipment, transportation, and receipt” of the waste applies. *See* 40 C.F.R. 260.10 (2013), as amended at 79 Fed. Reg. 7518 (Feb. 7, 2014). The scope of use of the e-Manifest System where USEPA does not require use of a manifest is broad.

USEPA explained that the e-Manifest System can find use wherever a federal or state rule requires use of a manifest for shipment of the waste. For shipments of waste that are not subject to federal hazardous waste manifest requirements, USEPA named examples for which state regulations could require use of a manifest: (1) universal waste; (2) small quantity generator waste; (3) a waste for which the generating state requires a manifest;⁴ and (4) a waste for which the receiving state requires a manifest. 79 Fed. Reg. at 7525 *See* 79 Fed. Reg. at 7521 (noting state comments as to used oil also). USEPA did not discuss used and waste oil, it is possible that some state may require the use of a manifest for shipments of this material. *See* 79 Fed. Reg. at 7521 (noting state comments as to used oil).

Whatever the scope of other states’ requirements to use manifests for waste shipments, Illinois requires use of a manifest on the same terms as do the federal regulations. While the Board can designate hazardous waste and impose manifest requirements where USEPA has not done so (*see* 415 ILCS 5/22.4(b); 42 U.S.C. § 6929 (2011)), the Board has yet to do so. Thus, the broadest scope of “these regulations” under the Illinois regulatory scheme is the substantive hazardous waste regulations in 35 Ill. Adm. Code 720 through 728.

The Board appended a Board note to 35 Ill. Adm. Code 722.124(a). The note explains the substitution of “these regulations” with “35 Ill. Adm. Code 720 through 728.” The Board added explanation that the Board intends that use of the e-Manifest System have the same effect in Illinois as it would where the federal requirements directly apply.

References to USDOT Hazmat Regulations. USEPA recognized that the USDOT requirements impede total elimination of the requirements for using paper hazardous waste

⁴ USEPA separately considered an intrastate shipment of waste where the state requires use of a manifest. The Board does not see a distinction between this situation and one in which only the generating state requires use of a manifest.

manifests.⁵ USEPA stated as follows with regard to the interplay of the e-Manifest rule and USDOT shipping paper requirements:

While it is the intent of this rule to eliminate as far as practicable the reliance on the preparation and retention of paper records in connection with tracking hazardous waste and state-regulated shipments, [US]EPA cannot, at this time, eliminate all paper documents that are required in the course of transporting hazardous wastes. As we explained in the May 2001 proposed rule (see 66 FR 28268) [sic], it will still be necessary to carry a printed copy of the electronic manifest on the transport vehicle during the transportation of hazardous wastes that are subject to the hazardous materials regulations, 49 CFR parts 171–180 [sic] (HMR), since [US]DOT requires that a hard copy of a shipping paper be carried on transport vehicles for shipments of hazardous materials, unless otherwise excepted. 79 Fed. Reg. at 7526 (footnote omitted).

Use of the e-Manifest System does not satisfy USDOT requirements that a physically signed paper copy of shipping papers accompany Hazmat shipments. USEPA references the USDOT regulations in 40 C.F.R. 262.24(d) and 263.20(a)(4)(iii). Each of these provisions states as follows:

To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest. 40 C.F.R. 262.24(d), as added at 79 Fed. Reg. 7518 (Feb. 7, 2014); *see* 263.20(a)(4)(iii), as added at 79 Fed. Reg. 7518 (Feb. 7, 2014) (adding this as an exception in a longer statement).

Cited 49 C.F.R. 177.817 prohibits a carrier from accepting a consignment, unless the consignment is accompanied by shipping paper and the shipper's certification. This USDOT rule prescribes with particularity how the shipping paper is to accompany each consignment, and it requires each person receiving a copy of the shipping paper to retain a copy or facsimile of the shipping paper. This USDOT provision pertains only to transportation of hazardous material by highway. *See* 49 C.F.R. 177.817 (2013).

The USDOT Hazmat regulations are complex and span several parts. One part, 49 C.F.R. 172 prescribes the general provisions for preparing and using shipping papers. Several other parts relate to particular modes of transportation: 49 C.F.R. 174 for carriage by rail, 49

⁵ USEPA observed that the 2012 appropriation bill for USDOT requires USDOT to conduct pilot project to study the feasibility and effectiveness of paperless hazard communications systems. USEPA noted that this “HMAccess” program could result in totally paperless shipments of hazardous waste. *See* 79 Fed. Reg. at 7527, n. 7; Moving Ahead for Progress in the 21st Century Act (MAP-21), Title III—Hazardous Materials Transportation Safety Improvement Act of 2012, § 33005, 126 Stat. 405, 833-34 (July 6, 2012). USDOT was to have submitted a report of its study to Congress by July 6, 2014. *See* MAP-21, § 33005(c), 126 Stat. at 834.

C.F.R. 175 for carriage of aircraft, 49 C.F.R. 176 for carriage by vessel, and 49 C.F.R. 177 for carriage by highway.⁶

The USDOT regulations applicable to transportation by rail, air, and vessel include requirements that shipping papers accompany shipments of hazardous waste. The requirements for shipments of hazardous material by rail, a copy or electronic image of the shipping papers must accompany the material. *See* 49 C.F.R. 174.24(b) (2014). For a shipment by aircraft, a copy of the shipping paper must accompany the shipment, and notification of detailed information about the hazardous material must be submitted to the pilot-in-command before the flight, and the notice must remain readily accessible to the pilot-in-command during flight. *See* 49 C.F.R. 175.33 (2014). For shipment by vessel, each entity accepting a hazardous material for shipment must retain a copy or electronic image of the shipping papers available at its principal place of business. *See* 49 C.F.R. 176.24(b) (2013).

USEPA did not include citations to the general shipping paper provisions of subpart C of 49 C.F.R. 172 or the rail-, air-, and vessel-specific requirements of 49 C.F.R. 174, 175, and 176, only those in 49 C.F.R. 172.817, which pertain to transportation by highway. Initially, the Board pondered why USEPA referenced the provision applicable to transportation by public highway and omitted references to the general shipping paper provisions or those applicable to transportation by other modes. Examination of the USDOT and USEPA rules has led the Board to conclude that reference to 40 C.F.R. 172.817 alone is sufficient.

The USDOT public highway-specific provision of 49 C.F.R. 172.817 refers to the general shipping paper requirements subpart C of 49 C.F.R. 172. This reference obviates a reference to those requirements in USEPA's e-Manifest provisions.

The state primacy provisions of the e-Manifest rule require that a state program include the existing elements of 40 C.F.R. 263.20(e) and (f) as part of the state program. This hazardous waste transporter provision prescribes the hazardous waste manifest requirements applicable to carriage by rail or vessel. *See* 40 C.F.R. 271.11(c)(1), as amended at 79 Fed. Reg. 7563. Thus, the existing USEPA requirements are already consistent with USDOT shipping paper requirements for carriage by rail or vessel. Both of these modes allow use of an electronic image of the shipping papers. *See* 49 C.F.R. 174.24(b) and 176.24(b).

There is no reference in the e-Manifest rule and associated state primacy requirements to the USDOT shipping paper requirements specific to carriage by air. *See* 40 C.F.R. 263.20(a), as amended at 79 Fed. Reg. 7559. There is no reference to transportation by air in the associated state primacy requirements of the e-Manifest rule. *See* 40 C.F.R. 271.11(c)(1), as amended at 79 Fed. Reg. 7563. The hazardous waste manifest system rule does not include a provision for transportation of hazardous waste by air. *See* 40 C.F.R. 263.20(b) through (d), (g), and (h) (2013). This is all despite the fact that the hazardous waste regulations acknowledge that this mode of transportation is possible. *See* 40 C.F.R. 263.30(c) (2013) (relating to discharge of hazardous waste during all four modes of transportation).

⁶ 49 C.F.R. 173, 178, 179, and 180 do not include provisions relating to shipping papers, and would not bear on shipments of hazardous waste.

The Board does not know whether USEPA intentionally or inadvertently omitted the reference to air transportation requirements. Since the USDOT shipping paper requirements for transportation by air speak for themselves as a matter of federal law, the Board can see no reason to make those transportation requirements a segment of the Illinois hazardous waste regulations. USEPA did not make them a segment of the federal hazardous waste regulations.

A Legally Valid and Enforceable Signature. The e-Manifest rule requires an electronic signature on manifests that is a “legally valid and enforceable signature under [US]EPA and other Federal requirements.”⁷ 40 C.F.R. 262.25(a), as added at 79 Fed. Reg. at 7559 (corresponding with 35 Ill. Adm. Code 722.125(a)). USEPA opted to use what it calls this “technology-neutral approach” used for CROMERR over the alternative of specifying particular signature technologies. 79 Fed. Reg. at 7531. USEPA did not specify use of CROMERR electronic document provisions because USEPA anticipates that newer rules will one day replace CROMERR as electronic filing technologies develop. *Id.* at 7532.

That USEPA specified the use of a “legally valid and enforceable signature under [US]EPA and other Federal requirements” is potentially troubling. It would appear that the Illinois rule is imposing a standard that is not specified. Ordinarily, where an Illinois rule imposes some extrinsic standard, specification of the standard and its incorporation by reference are required. *See* 5 ILCS 100/5-75 (2012) (Administrative Procedure Act provision for incorporation by reference). The Board does not believe, however, that using the open-ended language used by USEPA present rule will be problematic. This is because USEPA will administer the nationwide system, and the system will determine what constitutes a compliant signature—as a matter of *federal* law.

Having concluded that the Board does not need to delve into what constitutes a “legally valid and enforceable signature under [US]EPA and other Federal requirements,” the Board observes that The Government Paperwork Elimination Act, Pub. L. 105-277, Title XVII, 112 Stat. 2681-749-751, Oct. 21, 1998, requires development federal standards for electronic signatures.⁸ USEPA’s rules implementing this requirement is the CROMERR. *See* 40 C.F.R. 3.10 (2013).

The Government Paperwork Elimination Act, Pub. L. 105-277, Title XVII, 112 Stat. . See Since the manifest system is federally implemented and managed, should the Illinois rule impose the requirement that the signature also comport with State requirements? E.g., Electronic Commerce Security Act, 5 ILCS 175.

Transmitting Copies to the e-Manifest System Operator. The e-Manifest rule requires that the receiving treatment, storage, or disposal (T/S/D) facility transmit a copy of the signed manifest to USEPA. *See* 40 C.F.R. 264.71(a)(2)(v), as added at 79 Fed. Reg. at 7560. In the

⁷ If the electronic signature method is under testing, the generator must sign a printed copy of the manifest. *See* 40 C.F.R. 262.24(f), as added at 79 Fed. Reg. at 7559.

⁸ In Illinois law, the Electronic Commerce Security Act, 5 ILCS 175, outlines State standards for digital signatures.

parallel interim status T/S/D facility provision, the submission it to the e-Manifest system operator. *See* 40 C.F.R. 265.71(a)(2)(v), as added at 79 Fed. Reg. at 7561.

The Board has changed “EPA” in 40 C.F.R. 264.71(a)(2)(v) to require submission to the e-Manifest System operator in corresponding 35 Ill. Adm. Code 724.171(a)(2)(E). Thus, the T/S/D facility standards agree with the interim status facility standards. This agrees with what USEPA intended. *See* 79 Fed. Reg. at 7521, 7547-49 (Feb. 7, 2014); *see also* 79 Fed. Reg. at 7546 (discussion of submission to USEPA for input by the e-Manifest System operator).

Requests for Comments. In the October 16, 2014 proposal for public comment, the Board generally requested comments on the February 7, 2014 e-Manifest rule. The Board further requested comments on specific aspects of the amendments that encompass the rule:

1. Does the effort to standardize the use of defined terms and abbreviations throughout the text differ from what USEPA intended in any segment of the amendments?
2. Does the restructuring of the definition of “user of the electronic manifest system” alter the meaning that USEPA intended for the term?
3. Does the substitution of “35 Ill. Adm. Code 720 through 728.” for “these regulations” embody what USEPA intended?
4. Is there any need to add citations to the shipping paper requirements for modes other than highway—*i.e.*, the requirements for transportation by air, rail, or vessel?
5. Is it necessary to cite specific federal or State requirements for a legally valid electronic signature where USEPA itself will determine what is sufficient to tender information into a system that USEPA itself will operate and administer?
6. Does the change from “EPA” to “e-Manifest System operator” in 35 Ill. Adm. Code 724.171(a)(2)(E) clarify USEPA’s intended meaning and make this provision consistent with 35 Ill. Adm. Code 725.171(a)(2)(E)?

The Board received no comments in response to these requests. For this reason, the Board has adopted the language of the proposal for public comment with only the limited number of revisions prompted by the JCAR-suggested changes.

Incorporation of the Revised Export Requirements for CRTs into the Illinois Regulations.

USEPA adopted the CRT rule in 2006 to govern management of used, intact CRTs for reuse and recycling, to encourage their reuse and recycling over disposal in a landfill or by incineration. *See* 71 Fed. Reg. 42928 (July 28, 2008); 79 Fed. Reg. at 36221. The CRT rule is codified as a conditional exclusion of used, unbroken CRTs that are managed in specified ways from the definition of solid waste. *See* 40 C.F.R. 261.139-261.41 (2013).

The Interagency Task Force on Electronics Stewardship found that CRTs are often exported for reuse or recycling in developing countries, where they are actually reclaimed under

unsafe conditions. Interagency Task Force on Electronics Stewardship, *National Strategy for Electronics Stewardship* (July 2011), at pp. 29-30; see 79 Fed. Reg. at 36222. On June 26, 2014 (at 79 Fed. Reg. 36220), USEPA revised the requirements of the CRT rule that govern export of used CRTs for reuse and recycling. USEPA's stated purpose was to ensure the safe management of the CRTs.

USEPA added a definition of "CRT exporter" to clarify the persons to whom the export provisions apply. USEPA seeks to ensure through this clarity that the person who exports CRTs will submit the required export notice to the destination country, to avoid the inability of the government of that country to consent to the import, and so that government can be aware of the import and monitor the recycling of the CRTs. 79 Fed. Reg. at 36222-23. As to the other amendments, different requirements apply to CRTs exported for recycling than those that apply to CRTs exported for reuse.

As to the revisions pertaining to used CRTs that are exported for recycling, USEPA added a requirement that a CRT exporter must submit reports of its exports on an annual basis. USEPA further modified the CRT export notification to require information on each recycler intended to receive the CRTs and the estimated quantity of used CRT that are to be sent to each. 79 Fed. Reg. at 36223-24.

As to the provisions pertaining to CRTs exported for reuse, USEPA changed the requirement for a one-time notice of intent to export used, intact CRTs for reuse to a requirement for annual notice. USEPA further changed the information required in the notice to include such information as the intended recipients and destination location for the shipments, the frequency of shipments, the total quantity of used, intact CRTs that will be shipped, details on the mode of transport and the packagings that will be used, and description of how the used, intact CRTs will be used in the receiving country. USEPA added a statement to be executed by the CRT exporter, acknowledging that, after personal examination of the facts, the CRT exporter certifies that the CRTs are intact, capable of becoming fully functional, and will be reused or refurbished and reused. The CRT exporter must maintain records that demonstrate that each shipment of used, intact CRTs will be reused. 79 Fed. Reg. at 36224-27.

The Board has incorporated the USEPA amendments to the rules governing export of used CRTs without substantive deviation from the text of the federal rules. The foregoing discussion is intended to aid understanding of the federal action that the Board now incorporates into the Illinois rules. Persons wishing to explore the substance of the USEPA corrections and clarifications should refer to the appropriate *Federal Register* notices. The Board's purpose here is to ensure that the Illinois regulations are identical-in-substance to their federal counterparts.

The Board has made minor revisions to the federal language to enhance clarity, correct errors, and adapt the federal language to the Board's preferred style and to *Illinois Administrative Code* codification requirements. All of the revisions made by the Board are itemized and briefly described in Table 1, which is appended at the end of the opinion segment of this opinion and order. Most are not discussed in this opinion. Brief discussion of a limited number of the revisions follows.

Use of the Pronoun “That” in Place of “Who.” The Board has consistently changed the personal pronoun “who” to “that” whenever encountered in rules, unless it is clear that only a natural person is intended. Most persons that engage in waste and hazardous waste activities are corporate entities, for which use of “that” is more appropriate. The Board usually makes this substitution without discussion, simply listing the change in the tables of deviations from the literal federal text that are appended to the opinion segment of the opinion and order.

In the present amendments, the Board changed “any person in the United States who initiates a transaction” to “any person in the United States that initiates a transaction.” The Board is aware that USEPA intended to make each person, natural or otherwise, accountable for the export transaction, in order to ensure that export notification occurs. *See* 79 Fed. Reg. at 36223. The Board is further aware that the required export certification statements are executed of a natural person. *See* 40 C.F.R. 261.39(a)(5)(x)(C) and 261.41(a)(1)(viii) (2013), as amended at 79 Fed. Reg. at 36231 (corresponding with 35 Ill. Adm. Code 721.139(a)(5)(J)(iii) and 721.141(a)(1)(H)). The Board does not intend to change the scope or function of the definition of “CRT exporter” by these changes.

Export Notification to the Agency. The Board has retained the requirement in the existing rule that the CRT exporter submit export notification to the Agency. *See* 35 Ill. Adm. Code 721.139(a)(5)(A) and 721.141(a). This required adding the address information for the Agency at 35 Ill. Adm. Code 721.141(a)(2). The Board borrowed the existing language from 35 Ill. Adm. Code 721.139(a)(5)(A)(iii).

When adopting the original exclusion of CRTs, the Board included a requirement of submitting the export notification to the Agency. In response to a request for comment, the Agency stated that parallel notifications will enable the Agency to conduct facility inspections. *See* RCRA Subtitle C Update, USEPA Amendments (March 5, 2005, September 8, 2005, and January 1, 2006 through June 30, 2006), R07-5, RCRA Subtitle C Update, USEPA Amendments (July 1, 2006 through December 31, 2006), R07-14 (June 5, 2008), slip op. at 60-61.

Requests for Comments. In the October 16, 2014 proposal for public comment, the Board generally requested comments on the June 26, 2014 amendments to the CRT export rules. The Board further requested comments on specific aspect of the amendments that encompass the rule:

1. Does the change of “who” to “that” change the scope or effect of the new definition of “CRT exporter”?
2. Should the Board follow the practice of existing rule for export notification for CRTs destined for recycling and require the CRT exporter of CRTs destined for reuse to submit export notifications to the Agency?

The Board received no comments in response to these requests. For this reason, the Board has adopted the language of the proposal for public comment with only the limited number of revisions prompted by the JCAR-suggested changes.

Discussion of Board-Initiated Corrections and Updates

The Board routinely examines federal amendments and the base text of rules open for amendments to find any areas that need correction or clarification. The Joint Committee on Administrative Rules (JCAR) and the Office of the Secretary of State also routinely examine the text and suggest corrections and clarifications. Sometimes suggestions arise from the Illinois Environmental Protection Agency, USEPA, or members of the regulated community. The Board often makes revisions as a result.

The revisions thus made are not directly derived from federal amendments. The Board is ever mindful of the limited discretion authorized in the context of an identical-in-substance proceeding. The Board is limited to (1) “those changes that are necessary for compliance with the Illinois Administrative Code”; (2) “technical changes that in no way change the scope or meaning of any portion of the regulations”; (3) “USEPA rules that are not applicable to persons or facilities in Illinois”; (4) “things which are outside the Board’s normal functions”; and (5) “apparent typographical and grammatical errors.” *See* 415 ILCS 5/7.2(a), (a)(1), (a)(2), and (a)(7) (2012). Thus, the Board will only make minor, non-substantive corrections and clarifications in this context. These corrections are non-substantive in effect.

The Board is including a limited number of corrections and clarifications in this docket. The Board has cataloged a small number of necessary corrections and clarifications since the last RCRA Subtitle C update docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 2013 through December 31, 2012 and January 3, 2014), R14-13 (Apr. 17, 2014).

The Board has made a limited number of changes in the text of various rules that are not directly based on USEPA actions during January 1, 2014 through June 30, 2014. The following segments of discussion consider the amendments added by the Board. The Board will not discuss most of the particular corrective amendments in detail. All corrections are itemized in Table 2, which appears at the end of the opinion segment of this opinion and order. The following segments briefly discuss what the Board believes are the more salient of the corrections. There is no discussion of the rest of the corrections that appear in Table 2.

The Board requests that the Agency, JCAR, USEPA and the regulated community review the table and the text of the corrections and comment as necessary. The Board also requests ongoing assistance of the Agency, JCAR, and the regulated community in the process of spotting and correcting errors or omissions in the rules. The Board requests that interested persons submit suggestions for the correction of any errors of which they become aware. The Board will either include the corrections in this docket or catalog them for future revisions if the suggestions relate to segments of the text that are not already involved in this proceeding.

Adding a Provision Omitted from Prior Amendments—Section 724.171. USEPA added 40 C.F.R. 264.71(e) and 264.71(e) when revising the Uniform Hazardous Waste Manifest Rule in 2005. *See* 70 Fed. Reg. 10776, 10821-23 (Mar. 4, 2005). The Board inadvertently omitted these provisions, which should have been added as corresponding 35 Ill. Adm. Code 724.171(e) and 725.171(e), in UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D, USEPA Amendments (January 1, 2005 through June

30, 2005 and August 1, 2005), R06-6, RCRA Subtitle C, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-7 (Jan. 5, 2006).

The Board has corrected the past omission. The minor revisions in the corresponding text are listed in Table 2.

Correcting the Source of Financial Assurance Definitions—Section 724.241. The financial assurance provisions applicable to T/S/D facilities include definitions of terms at 35 Ill. Adm. Code 724.241(g). Corresponding 40 C.F.R. 264.141(g) defines most of the same terms. The Illinois provision, however, differs in significant regards from its federal counterpart. The Board found it necessary to significantly modify the federal definitions of “bodily injury” and “property damage.” Further, the Board added definitions of “environmental damage,” “pollutants,” and “pollution incident.” See RCRA Update, USEPA Regulations (August 1, 1988 through December 31, 1988), R89-1 (Sep. 13, 1989), slip op. at pp. 25-27. The Board relied on definitions of these terms as published by the Insurance Services Office (ISO) to develop these definitions, although USEPA determined not to do so. The Board relied on the UST update, UST Financial Assurance USEPA Regulations (October 26, 1988), R89-4 (July 27, 1989), slip op. at pp. 11-13. See *id.* at p. 26; see also 53 Fed. Reg. 43322, 44333-34 (Oct. 26, 1988) (USEPA discussion of ISO definitions in the context of underground storage tank financial assurance rules).

The Board notes appended to the definitions in 35 Ill. Adm. Code 724.241(g) do not clearly ascribe them to the ISO. In fact, the definitions of “bodily injury” and “property damage” incorrectly ascribe the definitions to 40 C.F.R. 264.141.

The Board has corrected the attribution information for the definitions by adding the ISO to notes appended to the definitions of “bodily injury,” “environmental damage,” “pollutants,” “pollution incident,” and “property damage.” The Board further removed the attributions to 40 C.F.R. 264.141 from the notes appended to the definitions of “bodily injury” and “property damage”

The situation is similar with the financial assurance definitions applicable to interim status T/S/D facilities. In 35 Ill. Adm. 725.241(g), however, there are no errant attributions to USEPA provisions. To correct 35 Ill. Adm. 725.241(g), the Board has added Board notes that attribute the definitions of “bodily injury,” “environmental damage,” “pollutants,” “pollution incident,” and “property damage” to the ISO.

Requests for Comments. In the October 16, 2014 proposal for public comment, the Board asked that the Agency, the regulated community, and any other interested persons review the several Board-initiated changes listed in Table 2. The Board generally requested comments on those corrections. The Board further requested comments on specific aspects of the corrections:

1. The Board requests comments on the language added to 35 Ill. Adm. Code 724.171(e) and 725.171(e) that was omitted in the 2006 amendments.
2. The Board requests comments on the attributions to ISO in the definitions in 35 Ill. Adm. Code 724.251(g) and 725.241(g).

The Board received no comments in response to these requests. For this reason, the Board has adopted the language of the proposal for public comment with only the limited number of revisions prompted by the JCAR-suggested changes.

Historical Summaries of the RCRA Subtitle C and UIC Regulations

While the Board formerly included a recitation of a historical summary of the Illinois RCRA Subtitle C and underground injection control (UIC) regulations and programs in the opinion segment of every update to these regulations. The Board ended that practice in RCRA Subtitle C Update, USEPA Amendments (January 1, 2011 through June 30, 2011), R12-7 (Apr. 19, 2012). As a result, no historical summary appears as a segment of this opinion and order. Persons wishing to review the historical summary of the Illinois RCRA Subtitle C and UIC regulations and programs as it stood on January 31, 2014 must consult the Board's website to do so.

General Explanations of Board Deviation from the Literal Text of Federal Rules

When incorporating the federal rules into the Illinois system, the Board cannot always follow their literal text. Some deviation from the literal federal text is unavoidable. There are a variety reasons that copying the federal text is not possible.

Deviation arises through differences between the federal and state regulatory structure and systems. In Illinois, the responsibilities are divided among several entities—principally between the Board and the Agency.⁹ *See* 415 ILCS 5/4 and 5 (2012). The scope of the particular identical-in-substance mandate may not embrace all aspects of the USEPA action involved in a particular proceeding. Further, the Illinois environmental regulations are organized differently than are the more extensive rules of USEPA, sometimes requiring the Board to adapt many of the federal requirements into segments of the Illinois rules. Finally, the Board must comply with the Illinois Administrative Procedure Act (5 ILCS 100 (2012)) and codification requirements of the Office of the Secretary of State (1 Ill. Adm. Code 100) when incorporating the federal requirements.

⁹ Many other State agencies have some role to play in many functions under the Environmental Protection Act: the Department of Commerce and Community Affairs (*see* 415 ILCS 5/22, 22.23, 22.34, 25, 27, 55, 55.2, 55.6, 55.7, 55.14, 55.14a, and 55.15 (2012)), the Department of Natural Resources (*see* 415 ILCS 5/17.1-17.3, 27, and 55.6 (2012)), the Department of Agriculture (*see* 415 ILCS 5/14.3, 14.6, 22.2, 22.34, 22.35, 39.4, and 55.6 (2012)), the Illinois Department of Transportation (*see* 415 ILCS 5/3.135, 22.51, 39, and 39.2 (2012)), the Office of the State Fire Marshall (*see* 415 ILCS 5/22.12, 57.3-57.6, 57.9, and 57.11 (2012)), the Illinois Emergency Management Agency (*see* 415 ILCS 5/13.6, 25a-1, 25b, and 57.5 (2012)), the Department of Public Health (*see* 415 ILCS 5/13.2, 22.55, 25d-6, 55.2, and 55.6 (2012)), and the Department of Labor (*see* 415 ILCS 5/52 (2012)). Although the Board must remain mindful of the roles of every State agency in a particular subject matter area, the major divisions of authority of concern in identical-in-substance proceedings are those between the Board and the Agency.

Another source of deviation from the literal federal text of a rule relates to updating incorporations by reference and references and source-citations to federal rules. Sometimes this involves federal rules that are part of the USEPA action that prompts the Board amendments. The Board has incorporated many segments of USEPA rules by reference, so that updating the references completes the amendments without use of the literal text of federal amendments. At other times, the deviation is the result of updated federal regulations that are not directly involved in an underlying USEPA action within the timeframe of the docket. The Board has incorporated federal regulations not directly involved by reference because USEPA has cited to unrelated USEPA rules or rules of other federal agencies. As a result, the Board routinely examines federal regulations that are incorporated by reference or source-cited in the Illinois rules and updates the references and citations to ensure reliance on the most recent versions, unless incorporation of an earlier version is required.

Some deviation also arises through errors in and problems with the federal text itself. The language of many federal rules differs stylistically from the Board's preferences. The Board also sometimes finds segments of federal text that are less than clear or which contain errors. The Board conforms the federal text to the Illinois rules and regulatory scheme and corrects errors found in the text in the course of these routine update rulemakings.

The following discussion segments explain in broad terms some of the changes to the literal text of federal rules that the Board makes on a more routine basis. What follows are general consideration of deviation from the literal text of federal rules that are prompted by three sources: (1) the divisions of authority between the Board and Agency under the Act; (2) routine updating of incorporations by reference of and citations to the *Code of Federal Regulations*; and (3) stylistic changes, clarifications, and corrections routinely made.

The Board will not further discuss changes prompted by three other causes: (1) differences in regulatory structure; (2) the scope of an identical-in-substance mandate, or (3) Illinois rulemaking procedure and codification requirements. The Board includes discussion of deviation caused by these considerations in substantive segments of opinions when issues arise.

Agency or Board Action. Section 7.2(a)(5) of the Act requires the Board to specify those portions of the program over which USEPA will retain decision making authority. Based on the general division of functions within the Act and other Illinois statutes, the Board is also to specify which State agency is to make decisions.

In situations in which the Board has determined that USEPA will retain decision-making authority, the Board has replaced "Regional Administrator" with USEPA, so as to avoid specifying which office within USEPA is to make a decision.

In some identical-in-substance rules, certain decisions pertaining to a permit application are not appropriate for the Agency to consider. In determining the general division of authority between the Agency and the Board, the following factors should be considered:

1. Whether the entity making the decision is applying a Board regulation, or taking action contrary to, *i.e.*, "waiving," a Board regulation. It generally takes some form of Board action to "waive" a Board regulation.

2. Whether there is a clear standard for action such that the Board can give meaningful review to an Agency decision.
3. Whether the action would result in exemption from the permit requirement itself. If so, Board action is generally required.
4. Whether the decision amounts to “determining, defining or implementing environmental control standards” within the meaning of Section 5(b) of the Act. If so, it must be made by the Board.

There are four common classes of Board decisions: variance, adjusted standard, general and site-specific rulemaking, and enforcement. The first three are methods by which a regulation can be temporarily postponed (variance) or adjusted to meet specific situations (adjusted standard or site-specific rulemaking). There often are differences in the nomenclature for these decisions between the USEPA and Board regulations.

Routine Board Stylistic Changes, Clarifications, and Corrections. In addition to the amendments derived from federal amendments, the Board often makes necessary alterations in the text of various passages of the existing rules as provisions are opened for update in response to USEPA actions. This involves correcting deficiencies, clarifying provisions, and making other changes that are necessary to establish a clear set of rules that closely parallel the corresponding federal requirements within the codification scheme of the *Illinois Administrative Code*.

The Board substituted “or” for “/” in most instances where this appeared in the federal base text, using “and” where more appropriate. The Board further used this opportunity to make a number of corrections to punctuation, grammar, spelling, and cross-reference format throughout the opened text. The Board changed “who” to “that” and “he” or “she” to “it,” where the person to which the regulation referred was not necessarily a natural person, or to “he or she,” where a natural person was evident; changed “which” to “that” for restrictive relative clauses; substituted “must” for “shall”; capitalized the section headings and corrected their format where necessary; and corrected punctuation within sentences.

In addition, the federal rules have been edited to establish a uniform usage throughout the Board’s regulations. For example, with respect to “shall,” “will,” and “may,” “must” is used when an action is required by the rule, without regard to whether the action is required of the subject of the sentence or not. “Shall” is no longer used, since this word is not used in everyday language. Thus, where a federal rule uses “shall,” the Board substitutes “must.” This is a break from our former practice where “shall” was used when the subject of a sentence has a duty to do something. “Will” is used when the Board obliges itself to do something. “May” is used when choice of a provision is optional. “Or” is used rather than “and/or,” and denotes “one or both.” “Either . . . or” denotes “one but not both.” “And” denotes “both.”

The Joint Committee on Administrative Rules has requested that the Board refer to the United States Environmental Protection Agency in the same manner throughout all of our bodies of regulations—*i.e.*, air, water, drinking water, RCRA Subtitle D (municipal solid waste landfill), RCRA Subtitle C (hazardous waste), underground injection control (UIC), etc. The Board has

decided to refer to the United States Environmental Protection Agency as “USEPA.” The Board will continue this conversion in future rulemakings as additional sections become open to amendment. The Board will further convert “EPA” used in federal text to “USEPA,” where USEPA is clearly intended.

The Board has assembled tables to aid in the location of these alterations and to briefly outline their intended purpose. These are explained in the introductory paragraph of the following opinion segment.

**Tables of Deviations from the Federal Text and
Corrections to and Clarifications of the Base Text**

The tables below list numerous corrections and amendments that are not based on current federal amendments. Table 1 includes deviations made in this proposal for public comment from the verbatim text of the federal amendments. Table 2 contains corrections and clarifications that the Board made in the base text involved in this proposal. The amendments listed in Table 2 are not all directly derived from the current federal amendments. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning in this opinion. Table 3 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 October 16, 2014. Table 3 indicates the changes made, as well as the source that suggested each of the changes. Table 4 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.

In Tables 3 and 4, the Board has included the line numbers from the JCAR identical line-numbered versions of the text of the proposed amendments where the Board has modified or not followed a JCAR-suggested change in the text. The Board intends that these line numbers aid JCAR staff in revising their version of the text to agree with the text of the amendments included in this opinion and order.

**Table 1:
Deviations from the Text of the Federal Amendments**

Illinois Section/ 40 C.F.R. Section	Revision(s)
720.102(c)/ 260.2(c)	Added the topical sub-heading, “public disclosure of hazardous waste manifest documents.”
720.102(c)(1)/ 260.2(c)(1)	Removed the recitation of the past effective date, “After August 6, 2014”; changed “Hazardous Waste Manifest” to lower-case “hazardous waste manifest”; changed “EPA” to “USEPA”; changed “electronic manifest” to the defined term “e-Manifest.”

720.102(c)(2)/ 260.2(c)(2)	Changed “EPA will” to “USEPA has stated that it will”; changed electronic manifest” to the defined term “e-Manifest”; changed “system” to the defined term “e-Manifest System” (twice); changed “electronic manifests” to the defined term “e-Manifests”; changed “are considered by EPA to be complete and final documents” to “are complete and final documents”; changed “and publicly available information” to “and they become publicly available information” offset by commas as an independent clause.
720.110 “CRT exporter”/ 260.10 “CRT exporter”	Placed the defined term “electronic manifest” in quotation marks; changed “who initiates” to “that initiates” because most persons that initiate such shipments are corporate entities and not natural persons.
720.110 “electronic manifest”/ 260.10 “electronic manifest”	Placed the defined terms “electronic manifest” and “e-Manifest” in quotation marks and removed the parentheses; changed “EPA” to “USEPA” (twice); changed “e-Manifest system” to the capitalized defined term “e-Manifest System”; changed “system” to the defined term “e-Manifest System”; changed “that” to “which” for a subsequent restrictive relative clause.
720.110 “Electronic Manifest System”/ 260.10 “Electronic Manifest System”	Placed the defined terms “Electronic Manifest System” and “e-Manifest System” in quotation marks and removed the parentheses; changed “EPA” to “USEPA”; changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “users of the manifest” to the defined term “users of the e-Manifest System.”
720.110 “manifest”	Changed “electronic manifest” to the defined term “e-Manifest.”

<p>720.110 “user of the Electronic Manifest System”/ 260.10 “user of the electronic manifest system”</p>	<p>Capitalized and placed the defined term “user of the Electronic Manifest System” in quotation marks; added the short-form term “user of the e-Manifest System” to agree with the defined short-form term “e-Manifest System”; added “or entity”; restructured the definition to remove the paragraph numbers and enhance clarity with their omission: added the em-dash at the end of the introductory paragraph; moved “that” to the first first-level subsidiary paragraph and added “which” to the second first-level subsidiary paragraph; combined paragraph (1) together with the statements “any federal or state¹⁰ requirement to track the shipment, transportation, and receipt of” in paragraphs (1)(i) and (1)(ii) into the single narrative statement of the first first-level subsidiary paragraph; used the remaining text of paragraph (1)(i) as the first second-level subsidiary statement; added the ending semicolon at the end of the second second-level subsidiary paragraph; moved the opening clause “elects to use” from paragraphs (2) and (3), added “which” for a subsequent restrictive relative clause, added “either,” and added the em-dash at the end to make the second first-level subsidiary statement, “and which elects to use either—”; used the remaining text of paragraph (2) and all of the remaining text of paragraph (3) but the last sentence as the second-level subsidiary statements following the second first-level subsidiary statement, changing “system” to “e-Manifest System” (twice), changing “electronic manifest” to “e-Manifest,” changing “EPA” to “USEPA,” changing “electronic manifest system” to “e-Manifest System,” and adding the ending semicolon; used the last sentence of paragraph (3) as a third second-level subsidiary statement following the second first-level subsidiary statement, changing “these paper copies are submitted . . . and are not the official copies” to singular “a paper copy submitted for data processing purposes is submitted . . . is not the official copy.”</p>
<p>720.111(b), 49 C.F.R. 172 and 177.817/ 262.24(d)</p>	<p>Added the incorporations by reference to support their use in 35 Ill. Adm. Code 722.124(d). See the entry for 722.124(d) below in this Table 1.</p>
<p>721.139(a)(5)(A)(vi)/ 261.39(a)(5)(i)(F)</p>	<p>Changed plural “names” to singular “name.”</p>
<p>721.139(a)(5)(J)/ 261.39(a)(5)(x)</p>	<p>Changed plural “CRT exporters” to singular “a CRT exporter”; changed “EPA” to “USEPA”; changed “such reports” to singular “this annual report.”</p>

¹⁰ The Board retained the lower-case “state” to embrace the use of a manifest where required by a sister state.

721.139(a)(5)(J)(i)/ 261.39(a)(5)(x)(A)	Changed “EPA” to “USEPA”; changed “ID nubmer” to “identification number.”
721.139(a)(5)(J)(iii)/ 261.39(a)(5)(x)(C)	Added “as follows.”
721.139(a)(5)(K)/ 261.39(a)(5)(xi)	Changed plural “exporters” to singular “a CRT exporter.”
721.141(a)/ 261.41(a)	Changed plural “CRT exporters” to singular “a CRT exporter”; changed “EPA” to “USEPA”; changed “twelve (12) month period” to “12-month period.”
721.141(a)(1)(A)/ 261.41(a)(1)(i)	Changed plural “CRT exporters” to singular “a CRT exporter”; changed “EPA” to “USEPA”; changed “twelve (12) month period” to “12-month period.”
721.141(a)(1)(D) 261.41(a)(1)(iv)	Changed “such country” to “that country.”
721.141(a)(1)(E)/ 261.41(a)(1)(v)	Changed “type(s)” to “types.”
721.141(a)(1)(H)/ 261.41(a)(1)(viii)	Added “as follows.”
721.141(a)(2)/ 261.41(a)(2)	Reformatted the addressed for enhanced clarity; removed the commas from before the parenthetical mail codes (twice); added “the following address” to the line before the hand-delivery address; changed “in both cases” to “in either case”; changed “shall” to “must”; added the information about addressing the notification to the Agency from 35 Ill. Adm. Code 721.139(a)(5)(D)(iii), changing “an export notification” to “a notification” to agree with the language from 40 C.F.R. 261.41(a)(2), as amended at 79 Fed. Reg. at 36231.
721.141(b)/ 261.41(b)	Changed “CRT exporters” to singular “a CRT exporter” (twice); retained the pronoun “that”; added commas before and after “as a third-party translation . . . into English” to offset it as a parenthetical; moved the comma to change “records as well, as” to “records, as well as”; changed “within 30 days upon request of EPA” to “within 30 days after a request by USEPA.”
722 table of contents/ 262 table of contents	Capitalized the section heading, “Use of the Electronic Manifest”; capitalized the section heading, “Electronic Manifest Signatures.”

722.120(a)/ 262.20(a)	Added the topical sub-heading, “manifest form required,” to accommodate the subsection designation that includes no text in the federal rule. See the entries for subsections (a)(1) and (a)(2) in Table 2 below.
722.120(a)(3)/ 262.20(a)(3)	Changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “complies with the requirements of” from the two subordinate subsections to “complies with the following requirements” and moved it to the end of this subsection.
722.120(a)(3)(i)/ 262.20(a)(3)(A)	Changed “electronic manifests” to the defined term “e-Manifests”; changed “complies with the requirements of” to “complies with the following requirements” and moved it to the end of subsection (a)(3); changed “e-Manifest” to capitalized “E-Manifest” as the first word in the sentence. See the entry for subsections (a)(3) above in this Table 1.
722.120(a)(3)(ii)/ 262.20(a)(3)(B)	Changed “complies with the requirements of” to “complies with the following requirements” and moved it to the end of subsection (a)(3); added the reference to the incorporation by reference “incorporated by reference in 35 Ill Adm. Code 720.111” offset by commas. See the entry for subsections (a)(3) above in this Table 1
722.124 heading/ 262.24 heading	Changed “electronic manifests” to the defined term “e-Manifests”; capitalized the section heading, “Use of the Electronic Manifest.”
722.124(a)/ 262.24(a)	Changed “EPA” to “USEPA”; changed “these regulations” to “35 Ill. Adm. Code 720 through 728.”
722.124(a)(1)/ 262.24(a)(1)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728.”
722.124(a)(2)/ 262.24(a)(2)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest”; changed “system” to the defined term “e-Manifest System.”
722.124(a)(3)/ 262.24(a)(3)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest”; changed “e-Manifest system” to the defined term “e-Manifest System”; changed “EPA” to “USEPA”; changed “authorized state inspector” to “Agency inspector.”
722.124(a)(4)/ 262.24(a)(4)	Changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “electronic manifest system” to the defined term “e-Manifest System.”

722.124(a) Board note/ 262.24(a)	Added explanation re the change from “these regulations” to “35 Ill. Adm. Code 720 through 728”; stated the intent that the Illinois provision have the same scope as the corresponding federal regulation.
722.124(b)/ 262.24(b)	Changed “electronic manifest system” to the defined term “e-Manifest System” (three times).
722.124(c)/ 262.24(c)	Changed “electronic manifests” to the defined term “e-Manifests”; changed “electronic manifest” to the defined term “e-Manifest”; changed “electronic manifest system” to the defined term “e-Manifest System” (three times).
722.124(d)/ 262.24(d)	Changed “electronic manifest” to the defined term “e-Manifest (twice)”; changed “Hazardous Materials regulation” to lower-case “hazardous materials regulation” (three times); added “incorporated by reference in 35 Ill Adm. Code 720.111” offset by commas; changed “electronic manifest” to the defined term “e-Manifest” (twice).
722.124(e)/ 262.24(e)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “electronic manifest system” to the defined term “e-Manifest System”; removed “then” from before “the generator must”; changed “EPA” to “USEPA”; changed from “instruction in the appendix to this part” to “instructions referenced in Appendix A to this Part” because Appendix A merely refers to the appendix to 40 C.F.R. 262 as incorporated by reference.
722.124(f)/ 262.24(f)	Changed “which” to “that” for a restrictive relative clause; changed “EPA” to “USEPA”; removed “then” from before “the generator must”; changed “shall” to “must”; changed “generator/offerror” to “generator or offeror.”
722.124(g)/ 262.24(g)	Changed “a generator who” to “a generator that,” since most generators are not natural persons; changed “users of the electronic manifest” to the defined term “users of the e-Manifest System; changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “EPA” to “USEPA” (twice); changed “system” to the defined term “e-Manifest System”; changed “electronic manifest system” to the defined term “e-Manifest System”

722.124(g) (last sentence)/ 262.24(g) Board note	Moved the sentence into the note; changed “the current schedule of electronic manifest user fees shall be published in an appendix to this part” to “USEPA stated in corresponding 40 CFR 262.24(g) that it would publish the current schedule of electronic manifest user fees as an appendix to 40 CFR 262”; changed “electronic manifest” to the defined term “e-Manifest.”
722.125 heading/ 262.25 heading	Capitalized the section heading, “Electronic Manifest Signatures.”
722.125/ 262.25	Changed “e-Manifest system” to the capitalized defined term “e-Manifest System”; changed “shall” to “must fulfill the following criteria.”
722.125(a)/ 262.25(a)	Added “the signature must”; changed “EPA” to “USEPA”; changed “electronic manifest” to the defined term “e-Manifest”; changed “Federal” to lower-case “federal.”
722.125(b)/ 262.25(b)	Added “the signature must”; changed “EPA” to “USEPA”; changed “users of the manifest” to the defined term “users of the e-Manifest System.”
723.125 table of contents/ 263.25 table of contents	Capitalized the section heading, “Electronic Manifest Signatures.”
723.120(a)(1)/ 263.20(a)(1)	Changed “EPA” to “USEPA” (twice).
723.120(a)(4)/ 263.20(a)(4)	Changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “EPA” to “USEPA.”
723.120(a)(4)(A)/ 263.20(a)(4)(i)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728.”
723.120(a)(4)(B)/ 263.20(a)(4)(ii)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest”; changed “system” to the defined term “e-Manifest System.”
723.120(a)(4)(C)/ 263.20(a)(4)(iii)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest” (twice); added a comma before “to the extent that . . . 49 CFR 817” to offset the parenthetical; changed “Hazardous Materials regulation” to lower-case “hazardous materials regulation”; added “incorporated by reference in 35 Ill Adm. Code 720.111” offset by commas.

723.120(a)(4)(D)/ 263.20(a)(4)(iv)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest”; changed “e-Manifest system” to the capitalized defined term “e-Manifest System”; changed “EPA” to “USEPA.”
723.120(a)(4)(E)/ 263.20(a)(4)(v)	Changed “electronic manifest” to the defined term “e-Manifest (twice)”; changed “EPA” to “USEPA”; changed “system” to the defined term “e-Manifest System.”
723.120(a)(4) Board note/ 263.20(a)(4)	Added explanation re the change from “these regulations” to “35 Ill. Adm. Code 720 through 728.”
723.120(a)(5)/ 263.20(a)(5)	Changed “electronic manifest system” to the defined term “e-Manifest System” (three times).
723.120(a)(6)/ 263.20(a)(6)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “electronic manifest system” to the defined term “e-Manifest System”; added “the following requirements apply.”
723.120(a)(6)(A)/ 263.20(a)(6)(i)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “shall” to “must.”
723.120(a)(6)(B)/ 263.20(a)(6)(ii)	Changed “shall” to “must” (three times); changed “electronic manifest system” to the defined term “e-Manifest System”; changed “electronic manifest” to the defined term “e-Manifest” (twice).
723.120(a)(6)(D)/ 263.20(a)(6)(iv)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “shall” to “must.”
723.120(a)(7)/ 263.20(a)(7)	Changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “which” to “that” for a restrictive relative clause; changed “shall” to “must” (three times); changed “owner/operator” to “owner or operator.”
723.120(a)(8)/ 263.20(a)(8)	Changed “electronic manifest” to the defined term “e-Manifest” (four times); changed “users of the electronic manifest” to the defined term “users of the e-Manifest System”; changed “who” to “that”; changed “EPA” to “USEPA”; changed “EPA shall maintain” to “USEPA has stated that it will maintain”; changed “shall” to “must” (twice); changed “system” to the defined term “e-Manifest System”; changed “electronic manifest system” to the defined term “e-Manifest System”; changed “the current schedule of electronic manifest user fees shall be published” to active-voice “USEPA has stated that it will publish the current schedule of electronic manifest user fees.”

723.125 heading/ 263.25 heading	Capitalized the section heading, “Electronic Manifest Signatures.”
723.125(a)/ 263.25(a)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “shall” to “must.”
723.125(b)/ 263.25(b)	Added explanation of USEPA marking the corresponding provision “reserved” to maintain structural consistency with the federal rule.
724.171(a)(2)/ 264.71(a)(2)	Retained the indefinite article in “a facility”; retained “its” in place of “his.”
724.171(a)(2)(D)/ 264.71(a)(2)(iv)	Retained the ending semicolon in place of a comma.
724.171(a)(2)(E)/ 264.71(a)(2)(v)	Changed “within 30 days of” to “within 30 days after”; added “the owner or operator must”; changed “EPA” to “the e-Manifest System operator”; changed “EPA system” to “e-Manifest System operator”; changed “EPA” to “USEPA” (twice); changed “EPA’s” to “USEPA’s”; changed “electronic manifest system” to the defined term “e-Manifest System”; changed the ending period to a semicolon and added the conjunction “and.”
724.171(f)/ 264.71(f)	Changed “electronic manifest” to the defined term “e-Manifest”; removed the conjunction “and” from before the third element of a four-element series; changed “these regulations” to “35 Ill. Adm. Code 720 through 728.”
724.171(f)(1)/ 264.71(f)(1)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728.”
724.171(f)(2)/ 264.71(f)(2)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest.”
724.171(f)(3)/ 264.71(f)(3)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest”; changed “waste shipment” to “hazardous waste shipment.”
724.171(f)(4)/ 264.71(f)(4)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest”; changed “e-Manifest system” to capitalized defined term “e-Manifest System”; changed “EPA” to “USEPA” changed “authorized state” to “Agency.”

724.171(f)(5)/ 264.71(f)(5)	Changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “electronic manifest system” to the defined term “e-Manifest System.”
724.171(g)/ 264.71(g)	Changed “electronic manifest system” to the defined term “e-Manifest System” (three times); changed “who” to “that.”
724.171(h)(1)/ 264.71(h)(1)	Changed the ending comma to a semicolon.
724.171(h)(2)/ 264.71(h)(2)	Changed the ending comma to a semicolon.
724.171(h)(3)/ 264.71(h)(3)	Changed “within 30 days of” to “within 30 days after”; changed “waste” to “hazardous waste” to agree with 40 C.F.R. 265.71(h)(3); Removed the unnecessary comma from before the dependent clause “and send and additional signed and dated copy”; cchanged “electronic manifest system” to the defined term “e-Manifest System”; changed the ending comma to a semicolon.
724.171(h)(4)/ 264.71(h)(4)	Changed “at least three years from” to “at least three years after.”
724.171(i)/ 264.71(i)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “which” to “that” for a restrictive relative clause; removed the unnecessary adverb “then” from before “the owner or operator must”; changed “shall” to “must” (twice); changed “at least 3 years from” to “at least three years after.”
724.171(j)/ 264.71(j)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “who” to “that”; changed “users of the electronic manifest format” to the defined term “users of the e-Manifest System”; changed “EPA” to “USEPA” (three times); changed “electronic manifest system” to the defined term “e-Manifest System” (three times); changed “EPA shall maintain” to “USEPA has stated that it would maintain”; changed “system” to the defined term “e-Manifest System”: changed “the current schedule of electronic manifest user fees shall be published” to active-voice “USEPA has stated that it will publish the current schedule of electronic manifest user fees.”
724.171(k)/ 264.71(k)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “shall” to “must.”
725.171(a)(2)/ 265.71(a)(2)	Retained the indefinite article in “a facility”; retained “its” in place of “his.”

724.171(a)(2)(D)/ 264.71(a)(2)(iv)	Retained the ending semicolon in place of a comma.
725.171(a)(2)(E)/ 265.71(a)(2)(v)	Changed “within 30 days of” to “within 30 days after”; added “the owner or operator must”; changed “Manifest” to lower-case “manifest”; changed “electronic manifest system” to the defined term “e-Manifest System” (three times); changed “system operator” to “e-Manifest System operator”; changed “EPA” to “the e-Manifest System operator”; changed “EPA” to “USEPA”; changed “EPA’s” to “USEPA’s”; changed the ending period to a semicolon and added the conjunction “and.”
725.171(f)/ 265.71(f)	Changed “electronic manifest” to the defined term “e-Manifest”; removed the conjunction “and” from before the third element of a four-element series; changed “these regulations” to “35 Ill. Adm. Code 720 through 728.”
725.171(f)(1)/ 265.71(f)(1)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728.”
725.171(f)(2)/ 265.71(f)(2)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest.”
725.171(f)(3)/ 265.71(f)(3)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “waste shipment” to “hazardous waste shipment”; changed “electronic manifest” to the defined term “e-Manifest.”
725.171(f)(4)/ 265.71(f)(4)	Changed “these regulations” to “35 Ill. Adm. Code 720 through 728”; changed “electronic manifest” to the defined term “e-Manifest”; changed “e-Manifest system” to capitalized defined term “e-Manifest System”; changed “EPA” to “USEPA” changed “authorized state” to “Agency”; changed “electronic manifest” to the defined term “e-Manifest.”
725.171(f)(5)/ 265.71(f)(5)	Changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “EPA system” to the defined term “e-Manifest System.”
725.171(g)/ 265.71(g)	Changed “electronic manifest system” to the defined term “e-Manifest System” (three times); changed “who” to “that.”
725.171(h)(1)/ 265.71(h)(1)	Changed the ending comma to a semicolon.
725.171(h)(2)/ 265.71(h)(2)	Changed the ending comma to a semicolon.

725.171(h)(3)/ 265.71(h)(3)	Changed “within 30 days of” to “within 30 days after”; changed “which” to “that” for a restrictive relative clause; changed “electronic manifest system” to the defined term “e-Manifest System”; changed the ending comma to a semicolon.
725.171(h)(4)/ 265.71(h)(4)	Changed “at least three years from” to “at least three years after.”
725.171(i)/ 265.71(i)	Changed “electronic manifest” to the defined term “e-Manifest”; changed “which” to “that” for a restrictive relative clause; removed the unnecessary adverb “then” from before “the owner or operator must”; changed “shall” to “must” (twice); changed “at least 3 years from” to “at least three years after.”
725.171(j)/ 265.71(j)	Changed “electronic manifest” to the defined term “e-Manifest” (three times); changed “who” to “that”; changed “EPA” to “USEPA” (three times); changed “users of the electronic manifest format” to the defined term “users of the e-Manifest System”; changed “electronic manifest system” to the defined term “e-Manifest System” (three times); changed “EPA shall maintain” to “USEPA has stated that it would maintain”; changed “system” to the defined term “e-Manifest System”; changed “the current schedule of electronic manifest user fees shall be published” to active-voice “USEPA has stated that it will publish the current schedule of electronic manifest user fees.”
725.171(k)/ 265.71(k)	Removed the unnecessary subsection designation “(1)”; changed “electronic manifest” to the defined term “e-Manifest” (twice); changed “shall” to “must.”

**Table 2:
Board Housekeeping Amendments**

Section	Source	Revision(s)
720.110 “manifest”	Board	Removed the words “that contains the information required by Subpart B of 35 Ill. Adm. Code 722” that USEPA removed at 49 Fed. Reg. 10490 (Mar. 20, 1984), and which the Board opted to retain in <u>RCRA and UIC Update</u> , R84-9 (June 13, 1985), slip op. at p. 4.
720.111(b), 10 C.F.R. 20.2006	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.

720.111(b), table II, column 2 in appendix B to 10 C.F.R. 20	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix G to 10 C.F.R. 20	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 10 C.F.R.71	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available, including removal of a now-obsolete <i>Federal Register</i> citation to amendments now included in that latest version.
720.111(b), 10 C.F.R.71.5	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 33 C.F.R. 153.203	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 3.3	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 3.10	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 3.2000	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 51.100(ii)	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix W to 40 C.F.R. 51	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix B to 40 C.F.R. 52.741	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 60	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available, including removal of two now-obsolete <i>Federal Register</i> citation to amendments now included in that latest version.
720.111(b), subpart VV of 40 C.F.R. 60	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.

720.111(b), appendix A to 40 C.F.R. 60	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 61	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), subpart V of 40 C.F.R. 61	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), subpart FF of 40 C.F.R. 61	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 63	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available, including removal of a now-obsolete <i>Federal Register</i> citation to amendments now included in that latest version.
720.111(b), subpart RR of 40 C.F.R. 63	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), subpart EEE of 40 C.F.R. 63	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), Method 301 in appendix A to 40 C.F.R. 63	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix C to 40 C.F.R. 63	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix D to 40 C.F.R. 63	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 136.3	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 144.70	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 232.2	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 257	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 257	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.

720.111(b), 40 C.F.R. 258	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 260.21(b)	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 261.151	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix III to 40 C.F.R. 261	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 262.53	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 262.54	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 262.55	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 262.56	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 262.57	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix to 40 C.F.R. 262	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 264.151	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix I to 40 C.F.R. 264	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix IV to 40 C.F.R. 264	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix V to 40 C.F.R. 264	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix VI to 40 C.F.R. 264	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix I to 40 C.F.R. 265	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.

720.111(b), appendix III to 40 C.F.R. 265	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix IV to 40 C.F.R. 265	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix V to 40 C.F.R. 265	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), appendix IX to 40 C.F.R. 266	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 267.151	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 270.5	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 761	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 761.3	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 761.60	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 761.65	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 40 C.F.R. 761.70	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
720.111(b), 49 C.F.R. 171	Board	Updated the <i>Code of Federal Regulations</i> reference by adding a <i>Federal Register</i> citation to amendments to the latest version available.
720.111(b), 49 C.F.R. 172	Board	Updated the <i>Code of Federal Regulations</i> reference by adding a <i>Federal Register</i> citation to amendments to the latest version available; corrected “(Nov. 19, 2103)” to “(Nov. 19, 2013).”
720.111(b), subpart C of 49 C.F.R. 172	Board	Updated the <i>Code of Federal Regulations</i> reference by adding <i>Federal Register</i> citations to amendments to the latest version available.

720.111(b), 49 C.F.R. 175	Board	Updated the <i>Code of Federal Regulations</i> reference by adding a <i>Federal Register</i> citation to amendments to the latest version available.
720.111(b), 49 C.F.R. 178	Board	Updated the <i>Code of Federal Regulations</i> reference by adding a <i>Federal Register</i> citation to amendments to the latest version available.
721.101(c)(8) Board note	Board	Added explanation how the definition of “speculatively accumulated” defines the term “speculative accumulation.”
721.101(e) Board note	Board	Corrected the indent level of the note to associate it with subsection (e), rather than with Section 721.101 as a whole; updated the <i>Code of Federal Regulations</i> reference to the latest version available..
721.104(a)(24)	Board	Corrected the citation to “Section 721.110” to “Section 721.101(c)(8).”
721.104(a)(24)(E)-(iii) Board note	Board	Added “from 40 CFR 261.4(a)(24)(v)(C)” for enhanced clarity.
721.104(b)(18)(F)-(iii)	JCAR	Removed the erroneous closing quotation mark after “Clean Air Act” where there is no opening quotation mark.
721.105(f)(3)(E)	Board	Added “incorporated by reference in 35 Ill. Adm. Code 720.111” offset by a comma.
721.138(a)(3)(A)	Board, JCAR	Changed the ending colon to a period. See the entry in Table 4 below.
721.138(b)(2)(C) Board note	Board	Corrected “40 CFR 261.138(b)(2)(i)(A)(1) and (b)(2)(i)(A)(5)” to “40 CFR 261.138(b)(2)(i)(A)(1) through (b)(2)(i)(A)(5).”
721.138(b)(4)	JCAR	Corrected “a an excluded” to “an excluded.”
721.138(b)(14)	JCAR	Added a comma before the parenthetical conditional phrase that begins with “provided that.”
721.139(a)(5)(B)	Board	Corrected the spelling “deleivered” to “delivered.”
721.139(a)(5)(J)	JCAR	Added a comma before the phrase “no later than March 1 of each year” to complete offsetting it as a parenthetical.

721.141(a)	Board	Changed “EPA ID number” to “USEPA identification number.”
722.120(a)(1)	Board	Restored the subsection designation formerly omitted because the requirement of 40 C.F.R. 262.20(a)(2) is not necessary in the Illinois regulations. See the entry for 722.120(a)(2) below in this table.
722.120(a)(2)	Board	Added a statement re omission of the corresponding federal rule, which is obsolete, in order to maintain structural consistency with the corresponding federal rules.
723.120(a)(3)	Board	Added a statement re omission of the corresponding federal rule, which is obsolete, in order to maintain structural consistency with the corresponding federal rules.
724.171(a)(1)	JCAR	Added a comma after the phrase “as indicated in subsection (a)(2) of this Section” to complete offsetting it as a parenthetical.
724.171(a)(2)	JCAR	Corrected “Section 725.172” to “Section 724.172.”
724.171(a)(2)(A)	Board	Changed “it must” to “the owner, operator, or agent must.”
724.171(a)(2)(B)	Board	Changed “it must” to “the owner, operator, or agent must.”
724.171(a)(2)(C)	Board	Changed “it must” to “the owner, operator, or agent must.”
724.171(a)(2)(D)	Board	Changed “it must” to “the owner, operator, or agent must.”
724.171(a)(2)(F)	Board	Changed “it must” to “the owner, operator, or agent must.”
724.171(e)	Board	Added the provision previously inadvertently omitted, changing “Federal” to lower-case “federal,” changing “facilities” to singular “a facility,” and correcting the plural “those states” to “that state” to agree with singular “the consignment state or generator state.”

724.241(g), “bodily injury” Board note	Board	Replaced the citation to 40 C.F.R. 264.141 with a reference to the Insurance Services Office, Inc. definition of the term.
724.241(g), “environmental damage” Board note	Board	Added a reference to the Insurance Services Office, Inc. definition of the term.
724.241(g), “pollutants” Board note	Board	Added a reference to the Insurance Services Office, Inc. definition of the term.
724.241(g), “pollution incident” Board note	Board	Added a reference to the Insurance Services Office, Inc. definition of the term.
724.241(g), “property damage” Board note	Board	Replaced the citation to 40 C.F.R. 264.141 with a reference to the Insurance Services Office, Inc. definition of the term; moved the note to the appropriate indent level.
724.241(h) Board note	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.
725.171(a)(2)(A)	Board	Changed “it must” to “the owner, operator, or agent must.”
725.171(a)(2)(B)	Board	Changed “it must” to “the owner, operator, or agent must”; corrected “Section 724.172”; to “35 Ill. Adm. Code 724.172.”
725.171(a)(2)(C)	Board	Changed “it must” to “the owner, operator, or agent must.”
725.171(a)(2)(D)	Board	Changed “it must” to “the owner, operator, or agent must.”
725.171(a)(2)(F)	Board	Changed “it must” to “the owner, operator, or agent must.”
725.171(e)	Board	Added the provision previously inadvertently omitted, changing “Federal” to lower-case “federal,” changing “facilities” to singular “a facility,” and correcting the plural “those states” to “that state” to agree with singular “the consignment state or generator state.”

725.241(g), “bodily injury” Board note	Board	Added the note attributing the definition to the Insurance Services Office, Inc. definition of the term.
725.241(g), “environmental damage” Board note	Board	Added a reference to the Insurance Services Office, Inc. definition of the term.
725.241(g), “pollutants” Board note	Board	Added a reference to the Insurance Services Office, Inc. definition of the term.
725.241(g), “pollution incident” Board note	Board	Added a reference to the Insurance Services Office, Inc. definition of the term.
725.241(g), “property damage” Board note	Board	Added the note attributing the definition to the Insurance Services Office, Inc. definition of the term.
725.241(h) Board note	Board	Updated the <i>Code of Federal Regulations</i> reference to the latest version available.

**Table 3:
Revisions to the Text of the Proposed Amendments
Made in Final Adoption**

Section (JCAR Document Location—where the Board deviated from a JCAR suggestion)	Source	Revision(s)
720 source note	JCAR	Corrected “39 Ill. Reg. 7189” to “38 Ill. Reg. 7189”; corrected “39 Ill. Reg. 12378” to “38 Ill. Reg. 12378.”
720.110, “user of the electronic manifest system”	JCAR	Added an ending semicolon to the end of the third and sixth paragraphs (twice); replaced the em-dash at the end of the fourth paragraph with a semicolon and the conjunction “and”; moved the pronoun “which” from the end of paragraph four to the beginning of paragraph five. See the entry in Table 4 below.
720.111(b), “49 CFR 172”	JCAR	Corrected “(Nov. 19, 2103)” to “(Nov. 19, 2013).”
721 source note	JCAR	Corrected “39 Ill. Reg. 12442” to “38 Ill. Reg. 12442.”

721.104(b)(18)(F)-(iii)	JCAR	Removed the erroneous closing quotation mark after “Clean Air Act” where there is no opening quotation mark.
721.138(a)(3)(A) (line 2563)	Board, JCAR	Changed the ending colon to a period. See the entry in Table 4 below.
721.138(b)(4)	JCAR	Corrected “a an excluded” to “an excluded.”
721.138(b)(14)	JCAR	Added a comma before the parenthetical conditional phrase that begins with “provided that.”
721.139(a)(5)(J)	JCAR	Added a comma before the phrase “no later than March 1 of each year” to complete offsetting it as a parenthetical.
721.141(a)(1)(D)	JCAR	Changed “such country” to “that country.”
721.141(a)(2)	JCAR	Added a comma before “NW” in the USEPA addresses (twice).
721.141(b)	JCAR	Moved the comma to change “records as well, as” to “records, as well as.”
722.120(a)(3)	JCAR	Changed “e-Manifest” to capitalized “E-Manifest” as the first word in the sentence.
722.120(a)(3)(A)	JCAR	Changed the ending comma to a semicolon.
723.120(a)(3)	JCAR	Corrected “this subsection (c)” to “this subsection (a)(3).”
723.120(a)(4)	JCAR	Changed “e-Manifest” to capitalized “E-Manifest” as the first word in the sentence.
723.120(a)(5)	JCAR	Corrected “this section” to capitalized “this Section.”
723.120(a)(4) Board note	JCAR	Corrected “and requirement” to “any requirement.”
723.120(a)(6)(A)	JCAR	Corrected the spelling “mustl” to “must.”
723.120(a)(7)	JCAR	Changed “which” to “that” for a restrictive relative clause.
724.171(a)(1)	JCAR	Added a comma after the phrase “as indicated in subsection (a)(2) of this Section” to complete offsetting it as a parenthetical.
724.171(a)(2)	JCAR	Corrected “Section 725.172” to “Section 724.172.”

724.171(a)(2)(E)	JCAR	Changed “within 30 days of” to “within 30 days after”; corrected “this subsection” to “this subsection (a).”
724.171(f)	JCAR	Changed “e-Manifest” to capitalized “E-Manifest” as the first word in the sentence.
724.171(f)(5)	JCAR	Corrected “this Section” to capitalized “this Section.”
724.171(i)	JCAR, Board	Changed “which” to “that” for a restrictive relative clause; Removed the unnecessary adverb “then” from before “the owner or operator must.”
724.171(j)	JCAR	Corrected “Section 724.171(a)(2)(v)” to “subsection 724.171(a)(2)(E)”; corrected “USEPA has state” to USEPA has stated.”
725.171(a)(2)(E)	JCAR	Changed “within 30 days of” to “within 30 days after”; corrected “this subsection” to “this subsection (a).”
725.171(f)(5)	JCAR	Corrected “this Section” to capitalized “this Section.”
725.171(f)(5)	JCAR	Corrected “this Section” to capitalized “this Section.”
725.171(h)(3)	JCAR	Removed the unnecessary comma from before the dependent clause “and send and additional signed and dated copy.”
725.171(i)	JCAR	Changed “which” to “that” for a restrictive relative clause; Removed the unnecessary adverb “then” from before “the owner or operator must.”
725.171(j)	JCAR	Corrected “Section 724.171(a)(2)(v)” to “subsection 724.171(a)(2)(E)”; corrected “USEPA has state” to USEPA has stated.”
725.171(k)	JCAR	Changed “e-Manifest” to capitalized “E-Manifest” as the first word in the sentence (twice).

**Table 4:
Requested Revisions to the Text of the Proposed Amendments
Not Made in Final Adoption**

Section Affected (JCAR Document Location)	Source of Request: Requested Revision	Explanation
720 source note (line 87)	JCAR: Remove “in R15-1” from the entry for the instant amendments.	The Board routinely indicates the docket number in the main source note for all rulemakings.
720.110, “Board” (line 175)	JCAR: Change the ending period to a colon.	The ending period is the more appropriate punctuation.
720.110, “boiler” (line 180)	JCAR: Change the ending colon in the second paragraph to a period.	The ending colon is the more appropriate punctuation.
720.110, “designated facility” (line 293)	JCAR: Add a closing parenthesis mark after “40 CFR 124 and 270” in the third paragraph.	There is no opening parenthesis mark in the text that would necessitate a closing parenthesis mark.
720.110, “TEQ” (line 1094)	JCAR: Add a hard hyphen to change the chemical name “2,3,7,8-tetrachlorodibenzo-p- dioxin” to “2,3,7,8-tetra-chloro- dibenzo-p-dioxin.”	The Board routinely adds soft hyphens between numerators and moieties of long chemical names to facilitate their clean breaking in text. A hyphen is inappropriate between “tetra” and “chloro,” except when a line break appears between them.
720.110, “user of the electronic manifest system” (line 1246)	JCAR: Change “which elects” to “that elects.”	The Board prefers to use “which” for a restrictive relative clause that follows a restrictive relative clause that uses the pronoun “that.” See the entry in Table 3 above.
720.111(a), “OECD,” “OECD Guidance Manual,” “Annex A” (line 1688)	JCAR: Add a semicolon after “C(2005)141” in the document title.	Although the style preferred by the Board would add the semicolon, the quoted original title does not include the semicolon.

720.111(b), “Appendix VI to 40 CFR 264” (line 2122)	JCAR: Change the symbol “§” to the word “Section.”	Although the Board would ordinarily use “section” in references to federal rules, the parenthetical information after the cited federal regulation is the title of the federal provision, which uses the “§” symbol.
721.104(b)(18)(F)- (iv) (line 1867)	JCAR: Remove the comma from before “or industrial furnace.”	The Board prefers to offset the final element of a series using a comma. <i>See</i> <u>The Chicago Manual of Style</u> , 14th ed. (The University of Chicago Press 1993), ¶ 5.57, at p. 173; <u>The Redbook: A Manual on Legal Style</u> (West Group 2002), ¶ 1.3(a), at pp. 3-4.
721.104(h)(1) Board note (line 2233)	JCAR: Remove the comma from before “or rail.”	The Board prefers to offset the final element of a series using a comma. See the entry for Section 721.104(b)(18)(F)(iv) above in this Table 4.
721.138(a)(3)(A) (line 2563)	JCAR: Change the ending colon to a semicolon.	A period is more appropriate punctuation. See the entry in Table 3 above.
721.138(b)(13)(C) (line 3052)	JCAR: Change “residues that are removed from a container or tank system and which do not meet the specifications” to “that are removed from a container or tank system and which do not meet the specifications.”	The language follows the identical wording of corresponding 40 C.F.R 261.38(b)(13)(iii). The use of the second pronoun makes it clear that two separate restrictive relative clauses are at work here. Removal of the second pronoun might allow interpretation that the Board intended something different than did USEPA.
721.141(a)(2) (lines 3415 and 3425)	JCAR: Remove the comma from before “DC” in the USEPA addresses (twice).	The Board prefers use of the comma to offset the territory name from the city name.

ORDER

The Board directs the Clerk to file the following adopted amendments to the Illinois RCRA Subtitle C hazardous waste regulations at 35 Ill. Adm. Code 720 and 721 with the Office of the Secretary of State:

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720
 HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section	
720.101	Purpose, Scope, and Applicability
720.102	Availability of Information; Confidentiality of Information
720.103	Use of Number and Gender
720.104	Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section	
720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section	
720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations and Non-Waste Determinations
720.131	Solid Waste Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.134	Non-Waste Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141	Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
720.142	Notification Requirement for Hazardous Secondary Materials
720.143	Legitimate Recycling of Hazardous Secondary Materials

720.APPENDIX A	Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations (Repealed)
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AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7189, effective March 13, 2014; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 720.102 Availability of Information; Confidentiality of Information

- a) Availability and confidentiality of information is governed by Illinois law, including Sections 7 and 7.1 of the Environmental Protection Act [415 ILCS 5/7 and 7.1] and 35 Ill. Adm. Code 130.
- b) ~~Any~~ Except as provided under subsection (c) of this Section, any person who submits information to the Board or the Agency in accordance with this Part or 35 Ill. Adm. Code 721 through 728 may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in 35 Ill. Adm. Code 130. Information covered by such a claim will be disclosed by the Board or the Agency only to the extent, and by means of the procedures, set forth in 35 Ill. Adm. Code 130. Information required under 35 Ill. Adm. Code 722.153(a) and 722.183 that is submitted in a notification of intent to export a hazardous waste will be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality or trade secret.
- c) Public disclosure of hazardous waste manifest documents.
- 1) No claim of business confidentiality may be asserted by any person with respect to information entered on a hazardous waste manifest (USEPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (USEPA Form 8700-22A), or an e-Manifest format that may be prepared and used in accordance with 35 Ill. Adm. Code 722.120(a)(3).
 - 2) USEPA has stated that it will make any e-Manifest that is prepared and used in accordance with 35 Ill. Adm. Code 722.120(a)(3), or any paper manifest that is submitted to the e-Manifest System under 35 Ill. Adm. Code 724.171(a)(6) or 725.171(a)(6) available to the public under this Section when the electronic or paper manifest is a complete and final document. E-Manifests and paper manifests submitted to the e-Manifest System are complete and final documents, and they become publicly available information, after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 728, 733, 738, and 739 only, the following terms have the meanings given below:

“Aboveground tank” means a device meeting the definition of tank that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

“Active life” of a facility means the period from the initial receipt of hazardous waste at the facility until the Agency receives certification of final closure.

“Active portion” means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after May 19, 1980, and which is not a closed portion. (See also “closed portion” and “inactive portion.”)

“Administrator” means the Administrator of the United States Environmental Protection Agency or the Administrator’s designee.

“Agency” means the Illinois Environmental Protection Agency.

“Ancillary equipment” means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

“Aquifer” means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

“Authorized representative” means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent, or person of equivalent responsibility.

“Battery” means a device that consists of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

“Board” means the Illinois Pollution Control Board.

“Boiler” means an enclosed device using controlled flame combustion and having the following characteristics:

Boiler by physical characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and the unit’s combustion chamber and primary energy recovery sections must be of integral design. To be of integral design, the

combustion chamber and the primary energy recovery sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream) and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit may be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps.); or

Boiler by designation. The unit is one that the Board has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 720.132.

“Carbon dioxide stream” means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

“Carbon regeneration unit” means any enclosed thermal treatment device used to regenerate spent activated carbon.

“Cathode ray tube” or “CRT” means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A “used, intact CRT” means a CRT whose vacuum has not been released. A “used, broken CRT” means glass removed from its housing or casing whose vacuum has been released.

“Certification” means a statement of professional opinion based upon knowledge and belief.

“Closed portion” means that portion of a facility that an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also “active portion” and “inactive portion.”)

“Component” means either the tank or ancillary equipment of a tank system.

“Confined aquifer” means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

“Container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

“Containment building” means a hazardous waste management unit that is used to store or treat hazardous waste pursuant to the provisions of Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

“Contingency plan” means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

“Corrosion expert” means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

“CRT collector” means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

“CRT exporter” means any person in the United States that initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

“CRT glass manufacturer” means an operation or part of an operation that uses a furnace to manufacture CRT glass.

“CRT processing” means conducting all of the following activities:

Receiving broken or intact CRTs;

Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

Sorting or otherwise managing glass removed from CRT monitors.

“Designated facility” means either of the following entities:

A hazardous waste treatment, storage, or disposal facility that has been designated on the manifest by the generator, pursuant to 35 Ill. Adm. Code 722.120, of which any of the following is true:

The facility has received a RCRA permit (or interim status) pursuant to 35 Ill. Adm. Code 702, 703, and 705;

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270;

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271; or

The facility is regulated pursuant to 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 266; or

A generator site designated by the hazardous waste generator on the manifest to receive back its own waste as a return shipment from a designated hazardous waste treatment, storage, or disposal facility that has rejected the waste in accordance with 35 Ill. Adm. Code 724.172(f) or 725.172(f).

If a waste is destined to a facility in a state other than Illinois that has been authorized by USEPA pursuant to 40 CFR 271, but which has not yet obtained authorization to regulate that waste as hazardous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

“Destination facility” means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in 35 Ill. Adm. Code 733.113(a) and (c) and 733.133(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for the purposes of managing that category of universal waste.

“Dike” means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

“Dioxins and furans” means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

“Director” means the Director of the Illinois Environmental Protection Agency.

“Discharge” or “hazardous waste discharge” means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the

environment or be emitted into the air or discharged into any waters, including groundwaters.

“Disposal facility” means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a corrective action management unit (CAMU) into which remediation wastes are placed.

“Drip pad” means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water runoff to an associated collection system at wood preserving plants.

“Electronic manifest” or “e-Manifest” means the electronic format of the hazardous waste manifest that is obtained from USEPA’s national e-Manifest System and transmitted electronically to the e-Manifest System, and which is the legal equivalent of USEPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

“Electronic Manifest System” or “e- Manifest System” means USEPA’s national information technology system through which the e-Manifest may be obtained, completed, transmitted, and distributed to users of the e-Manifest System and to regulatory agencies.

“Elementary neutralization unit” means a device of which the following is true:

It is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or which are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and

It meets the definition of tank, tank system, container, transport vehicle, or vessel in this Section.

“EPA hazardous waste number” or “USEPA hazardous waste number” means the number assigned by USEPA to each hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 and to each characteristic identified in Subpart C of 35 Ill. Adm. Code 721.

“EPA identification number” or “USEPA identification number” means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator; transporter; and treatment, storage, or disposal facility.

“EPA region” or “USEPA region” means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II: New York, New Jersey, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII: Nebraska, Kansas, Missouri, and Iowa.

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa, and Commonwealth of the Northern Mariana Islands.

Region X: Washington, Oregon, Idaho, and Alaska.

“Equivalent method” means any testing or analytical method approved by the Board pursuant to Section 720.120.

“Existing hazardous waste management (HWM) facility” or “existing facility” means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, State, and local approvals or permits necessary to begin physical construction and either of the following had occurred:

A continuous on-site, physical construction program had begun; or

The owner or operator had entered into contractual obligations that could not be canceled or modified without substantial loss for physical construction of the facility to be completed within a reasonable time.

“Existing portion” means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

“Existing tank system” or “existing component” means a tank system or component that is used for the storage or treatment of hazardous waste and which was in operation, or for which installation was commenced, on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State, and local approvals or permits necessary to begin physical

construction of the site or installation of the tank system and if either of the following is true:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations that cannot be canceled or modified without substantial loss for physical construction of the site or installation of the tank system to be completed within a reasonable time.

“Explosives or munitions emergency” means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

“Explosives or munitions emergency response” means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

“Explosives or munitions emergency response specialist” means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

“Facility” means the following:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste or for managing hazardous secondary materials prior to reclamation. A facility

may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

For the purpose of implementing corrective action pursuant to 35 Ill. Adm. Code 724.201 or 35 Ill. Adm. Code 727.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action pursuant to RCRA section 3008(h).

Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

“Federal agency” means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government, including any government corporation and the Government Printing Office.

“Federal, State, and local approvals or permits necessary to begin physical construction” means permits and approvals required under federal, State, or local hazardous waste control statutes, regulations, or ordinances.

“Final closure” means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities pursuant to 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.134.

“Food-chain crops” means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

“Freeboard” means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

“Free liquids” means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

“Gasification” means, for the purpose of complying with 35 Ill. Adm. Code 721.104(a)(12)(A), a process conducted in an enclosed device or system that is designed and operated to process petroleum feedstock, including oil-bearing hazardous secondary materials, through a series of highly controlled steps utilizing thermal decomposition, limited oxidation, and gas cleaning to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.

“Generator” means any person, by site, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

“Groundwater” means water below the land surface in a zone of saturation.

“Hazardous secondary material” means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste pursuant to 35 Ill. Adm. Code 721.

“Hazardous secondary material generated and reclaimed under the control of the generator” means one of the following materials:

A material that is both generated and reclaimed at the generating facility (for purposes of this definition, generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator);

A material that is generated and reclaimed at different facilities, if both of the following conditions are fulfilled:

Either the reclaiming facility is controlled by the generator, or both the generating facility and the reclaiming facility are controlled by the same person, as “person” is defined in this Section; and

The generator provides either of the following certifications:

“On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert the name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.”

or

“On behalf of [insert generator facility name] I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.”

For purposes of this definition, “control” means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as “person” is defined in this Section, shall not be deemed to “control” such facilities; or

A material that is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and which is reclaimed by the tolling contractor, if the tolling contractor certifies the following:

“On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name], has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process.”

For purposes of this definition, “tolling contractor” means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. “Toll manufacturer” means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

“Hazardous secondary material generator” means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this definition, “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of Sections 721.102(a)(2)(B) and 721.104(a)(23), a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

“Hazardous waste” means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

“Hazardous waste constituent” means a constituent that caused the hazardous waste to be listed in Subpart D of 35 Ill. Adm. Code 721, or a constituent listed in 35 Ill. Adm. Code 721.124.

“Hazardous waste management unit” is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system, and a container storage area. A container alone does not constitute a unit; the unit includes containers, and the land or pad upon which they are placed.

“Inactive portion” means that portion of a facility that was not operated after November 19, 1980. (See also “active portion” and “closed portion.”)

“Incinerator” means any enclosed device of which the following is true:

The facility uses controlled flame combustion, and both of the following are true of the facility:

The facility does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor

The facility is not listed as an industrial furnace; or

The facility meets the definition of infrared incinerator or plasma arc incinerator.

“Incompatible waste” means a hazardous waste that is unsuitable for the following:

Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire, or explosion, violent reaction, toxic dusts, mists, fumes or gases, or flammable fumes or gases.

(See Appendix E to 35 Ill. Adm. Code 724 and Appendix E to 35 Ill. Adm. Code 725 for references that list examples.)

“Industrial furnace” means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

Blast furnaces;

Smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces);

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

Combustion devices used in the recovery of sulfur values from spent sulfuric acid;

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least three percent, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20 percent, as generated; and

Any other such device as the Agency determines to be an industrial furnace on the basis of one or more of the following factors:

The design and use of the device primarily to accomplish recovery of material products;

The use of the device to burn or reduce raw materials to make a material product;

The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

The use of the device in common industrial practice to produce a material product; and

Other relevant factors.

“Individual generation site” means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

“Infrared incinerator” means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

“Inground tank” means a device meeting the definition of tank whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

“In operation” refers to a facility that is treating, storing, or disposing of hazardous waste.

“Injection well” means a well into which fluids are being injected. (See also “underground injection.”)

“Inner liner” means a continuous layer of material placed inside a tank or container that protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

“Installation inspector” means a person who, by reason of knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

“Intermediate facility” means any facility that stores hazardous secondary materials for more than 10 days and which is neither a hazardous secondary material generator nor a reclaimer of hazardous secondary material.

“International shipment” means the transportation of hazardous waste into or out of the jurisdiction of the United States.

“Lamp” or “universal waste lamp” means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

“Land-based unit” means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

“Land treatment facility” means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

“Landfill” means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

“Landfill cell” means a discrete volume of a hazardous waste landfill that uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

“LDS” means leak detection system.

“Leachate” means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

“Liner” means a continuous layer of natural or manmade materials beneath or on the sides of a surface impoundment, landfill, or landfill cell that restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

“Leak-detection system” means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

“Management” or “hazardous waste management” means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

“Manifest” means the shipping document USEPA Form 8700-22 (including, if necessary, USEPA Form 8700-22A), or the e-Manifest, originated and signed by the generator or offeror that contains the information required by Subpart B of 35 Ill. Adm. Code 722 and in accordance with the applicable requirements of 35 Ill. Adm. Code 722 through 727.

“Manifest tracking number” means the alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits) that is pre-printed in Item 4 of the manifest by a registered source.

“Mercury-containing equipment” means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function.

“Military munitions” means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including

bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

“Mining overburden returned to the mine site” means any material overlying an economic mineral deposit that is removed to gain access to that deposit and is then used for reclamation of a surface mine.

“Miscellaneous unit” means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container; tank; surface impoundment; pile; land treatment unit; landfill; incinerator; boiler; industrial furnace; underground injection well with appropriate technical standards pursuant to 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit pursuant to 35 Ill. Adm. Code 703.231; or staging pile.

“Movement” means hazardous waste that is transported to a facility in an individual vehicle.

“NAICS Code” means the code number assigned a facility using the “North American Industry Classification System,” incorporated by reference in Section 720.111.

“New hazardous waste management facility” or “new facility” means a facility that began operation, or for which construction commenced after November 19, 1980. (See also “Existing hazardous waste management facility.”)

“New tank system” or “new tank component” means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill. Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also “existing tank system.”)

“No free liquids,” as used in 35 Ill. Adm. Code 721.104(a)(26) and (b)(18), means that solvent-contaminated wipes may not contain free liquids, as determined by Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” incorporated by reference in Section 720.111, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test

method that the Agency has determined by permit condition is equivalent to Method 9095B.

“Onground tank” means a device meeting the definition of tank that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surfaces so that the external tank bottom cannot be visually inspected.

“On-site” means the same or geographically contiguous property that may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection and access is by crossing as opposed to going along the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way that the owner controls and to which the public does not have access is also considered on-site property.

“Open burning” means the combustion of any material without the following characteristics:

Control of combustion air to maintain adequate temperature for efficient combustion;

Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

Control of emission of the gaseous combustion products.

(See also “incineration” and “thermal treatment.”)

“Operator” means the person responsible for the overall operation of a facility.

“Owner” means the person that owns a facility or part of a facility.

“Partial closure” means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 35 Ill. Adm. Code 724 or 725 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

“Person” means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

“Personnel” or “facility personnel” means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act may result in noncompliance with 35 Ill. Adm. Code 724 or 725.

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that fulfills one of the following descriptions:

It is a new animal drug under section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in Section 720.111(c);

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA section 512 (21 USC 360b), incorporated by reference in Section 720.111(c), to be an exempted new animal drug; or

It is an animal feed under FFDCA section 201(w) (21 USC 321(w)), incorporated by reference in Section 720.111(c), that bears or contains any substances described in either of the two preceding paragraphs of this definition.

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: “Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug.” This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as pesticide any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

“Pile” means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage, and that is not a containment building.

“Plasma arc incinerator” means any enclosed device that uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

“Point source” means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

“Publicly owned treatment works” or “POTW” is as defined in 35 Ill. Adm. Code 310.110.

“Qualified groundwater scientist” means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as

demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport. BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

“RCRA” means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 USC 6901 et seq.).

“RCRA standardized permit” means a RCRA permit issued pursuant to Subpart J of 35 Ill. Adm. Code 703 and Subpart G of 35 Ill. Adm. Code 702 that authorizes management of hazardous waste. The RCRA standardized permit may have two parts: a uniform portion issued in all cases and a supplemental portion issued at the discretion of the Agency.

“Regional Administrator” means the Regional Administrator for the USEPA region in which the facility is located or the Regional Administrator’s designee.

“Remediation waste” means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that are managed for implementing cleanup.

“Remediation waste management site” means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action pursuant to 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is located in such a facility.

“Replacement unit” means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store, or dispose of hazardous waste. Replacement unit does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

“Representative sample” means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) that can be expected to exhibit the average properties of the universe or whole.

“Runoff” means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

“Runon” means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

“Saturated zone” or “zone of saturation” means that part of the earth’s crust in which all voids are filled with water.

“SIC code” means “Standard Industrial Classification code,” as assigned to a site by the United States Department of Transportation, Federal Highway Administration, based on the particular activities that occur on the site, as set forth in its publication “Standard Industrial Classification Manual,” incorporated by reference in Section 720.111(a).

“Sludge” means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

“Sludge dryer” means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb or less of sludge treated on a wet-weight basis.

“Small quantity generator” means a generator that generates less than 1,000 kg of hazardous waste in a calendar month.

“Solid waste” means a solid waste as defined in 35 Ill. Adm. Code 721.102.

“Solvent-contaminated wipe” means the following:

A wipe that, after use or after cleaning up a spill, fulfills one or more of the following conditions:

The wipe contains one or more of the F001 through F005 solvents listed in 35 Ill. Adm. Code 721.131 or the corresponding P- or U-listed solvents found in 35 Ill. Adm. Code 721.133;

The wipe exhibits a hazardous characteristic found in Subpart C of 35 Ill. Adm. Code 721 when that characteristic results from a solvent listed in 35 Ill. Adm. Code 721; or

The wipe exhibits only the hazardous waste characteristic of ignitability found in 35 Ill. Adm. Code 721.121 due to the presence of one or more solvents that are not listed in 35 Ill. Adm. Code 721.

Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at 35 Ill. Adm. Code 721.104(a)(26) and (b)(18).

“Sorbent” means a material that is used to soak up free liquids by either adsorption or absorption, or both. “Sorb” means to either adsorb or absorb, or both.

“Staging pile” means an accumulation of solid, non-flowing “remediation waste” (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Agency according to 35 Ill. Adm. Code 724.654.

“State” means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Storage” means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

“Sump” means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

“Surface impoundment” or “impoundment” means a facility or part of a facility that is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials) that is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

“Tank” means a stationary device, designed to contain an accumulation of hazardous waste that is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) that provide structural support.

“Tank system” means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

“TEQ” means toxicity equivalence, the international method of relating the toxicity of various dioxin and furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

“Thermal treatment” means the treatment of hazardous waste in a device that uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also “incinerator” and “open burning.”)

“Thermostat” means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules

that have been removed from such a temperature control device in compliance with 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

“Totally enclosed treatment facility” means a facility for the treatment of hazardous waste that is directly connected to an industrial production process and which is constructed and operated in a manner that prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

“Transfer facility” means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

“Transport vehicle” means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

“Transportation” means the movement of hazardous waste by air, rail, highway, or water.

“Transporter” means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

“Treatability study” means the following:

A study in which a hazardous waste is subjected to a treatment process to determine the following:

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

The efficiency of a treatment process for a specific waste or wastes;
and

The characteristics and volumes of residuals from a particular treatment process;

Also included in this definition for the purpose of 35 Ill. Adm. Code 721.104(e) and (f) exemptions are liner compatibility, corrosion and other material compatibility studies, and toxicological and health effects studies. A treatability study is not a means to commercially treat or dispose of hazardous waste.

“Treatment” means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, recover energy or material resources from the waste, or render the waste non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

“Treatment zone” means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

“Underground injection” means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also “injection well.”)

“Underground tank” means a device meeting the definition of tank whose entire surface area is totally below the surface of and covered by the ground.

“Unfit-for-use tank system” means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

“United States” means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Universal waste” means any of the following hazardous wastes that are managed pursuant to the universal waste requirements of 35 Ill. Adm. Code 733:

Batteries, as described in 35 Ill. Adm. Code 733.102;

Pesticides, as described in 35 Ill. Adm. Code 733.103;

Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104;
and

Lamps, as described in 35 Ill. Adm. Code 733.105.

“Universal waste handler” means either of the following:

A generator (as defined in this Section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates the universal waste, and sends that universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

“Universal waste handler” does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

“Universal waste transporter” means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

“Unsaturated zone” or “zone of aeration” means the zone between the land surface and the water table.

“Uppermost aquifer” means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility’s property boundary.

“USDOT” or “Department of Transportation” means the United States Department of Transportation.

“Used oil” means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

“USEPA” or “EPA” means the United States Environmental Protection Agency.

“User of the Electronic Manifest System” or “user of the e-Manifest System” means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person or entity—

that is required to use a manifest to comply with any federal or state requirement to track the shipment, transportation, and receipt of either—

hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

which elects to use either—

the e-Manifest System to obtain, complete and transmit an e-Manifest format supplied by the USEPA e-Manifest System; or

the paper manifest form and submits to the e-Manifest System for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with 35 Ill. Adm. Code 724.171(a)(2)(E) or 725.171(a)(2)(E).

A paper copy submitted for data processing purposes is submitted for data exchange purposes only and is not the official copy of record for legal purposes.

“USPS” means the United States Postal Service.

“Vessel” includes every description of watercraft used or capable of being used as a means of transportation on the water.

“Wastewater treatment unit” means a device of which the following is true:

It is part of a wastewater treatment facility that has an NPDES permit pursuant to 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge pursuant to 35 Ill. Adm. Code 310;

It receives and treats or stores an influent wastewater that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

It meets the definition of tank or tank system in this Section.

“Water (bulk shipment)” means the bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.

“Well” means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

“Well injection” (See “underground injection.”)

“Wipe” means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

“Zone of engineering control” means an area under the control of the owner or operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to groundwater or surface water.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 720.111 References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through 728, 730, 733, 738, and 739:

- a) Non-Regulatory Government Publications and Publications of Recognized Organizations and Associations:

ACGME. Available from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, IL 60654, 312-755-5000:

“Accreditation Council for Graduate Medical Education: Glossary of Terms,” March 19, 2009, referenced in 35 Ill. Adm. Code 722.300.

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:
http://www.acgme.org/acWebsite/about/ab_ACGMEglossary.pdf.

ACI. Available from the American Concrete Institute, Box 19150, Redford Station, Detroit, Michigan 48219:

ACI 318-83: “Building Code Requirements for Reinforced Concrete,” adopted November 1983, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, 212-354-3300:

See ASME/ANSI B31.3 and B31.4 and supplements below in this subsection (a) under ASME.

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, 202-682-8000:

“Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems,” API Recommended Practice 1632, Second Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

“Evaporative Loss from External Floating-Roof Tanks,” API publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 725.984.

“Guide for Inspection of Refinery Equipment,” Chapter XIII, “Atmospheric and Low Pressure Storage Tanks,” 4th Edition,

1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 724.291, 724.293, 725.291, and 725.292.

“Installation of Underground Petroleum Storage Systems,” API Recommended Practice 1615, Fourth Edition, November 1987, referenced in 35 Ill. Adm. Code 724.292.

ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, 212-705-7722:

“Chemical Plant and Petroleum Refinery Piping,” ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

“Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols,” ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, 610-832-9585:

ASTM C 94-90, “Standard Specification for Ready-Mixed Concrete,” approved March 30, 1990, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ASTM D 88-87, “Standard Test Method for Saybolt Viscosity,” approved April 24, 1981, reapproved January 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 93-85, “Standard Test Methods for Flash Point by Pensky-Martens Closed Tester,” approved October 25, 1985, USEPA-approved for 35 Ill. Adm. Code 721.121.

ASTM D 140-70, “Standard Practice for Sampling Bituminous Materials,” approved 1970, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 346-75, “Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis,” approved 1975, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 420-69, “Guide to Site Characterization for Engineering, Design, and Construction Purposes,” approved 1969, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1452-65, "Standard Practice for Soil Investigation and Sampling by Auger Borings," approved 1965, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography," approved March 30, 1990, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2161-87, "Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity," March 27, 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of Coal," approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)," approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," approved 1992, USEPA-approved for 35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 724.963 and 725.963.

ASTM D 3828-87, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," approved December 14, 1988, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography," approved June 28, 1985, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM G 21-70 (1984a), "Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

ASTM G 22-76 (1984b), "Standard Practice for Determining Resistance of Plastics to Bacteria," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, 202-512-1800:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, referenced in 35 Ill. Adm. Code 702.110 and Section 720.110.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November 1986), as amended by Updates I (July 1992), II (November 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1). See below in this subsection (a) under NTIS.

NACE. Available from the National Association of Corrosion Engineers, 1400 South Creek Dr., Houston, TX 77084, 713-492-0535:

"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

NFPA. Available from the National Fire Protection Association, 1 Batterymarch Park, Boston, MA 02269, 617-770-3000 or 800-344-3555:

"Flammable and Combustible Liquids Code," NFPA 30, issued July 18, 2003, as supplemented by TIA 03-1, issued July 15, 2004, and corrected by Errata 30-03-01, issued August 13, 2004, USEPA-approved for 35 Ill. Adm. Code 724.298, 725.298, and 727.290, referenced in 35 Ill. Adm. Code 725.301 and 726.211.

NTIS. Available from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-6000 or 800-553-6847 (Internet address: www.ntis.gov):

"APTI Course 415: Control of Gaseous Emissions," December 1981, USEPA publication number EPA-450/2-81-005, NTIS

document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935.

BOARD NOTE: “APTI” denotes USEPA’s “Air Pollution Training Institute” (Internet address: www.epa.gov/air/oaqps/eog/).

“Generic Quality Assurance Project Plan for Land Disposal Restrictions Program,” USEPA publication number EPA-530/SW-87-011, March 15, 1987, NTIS document number PB88-170766, referenced in 35 Ill. Adm. Code 728.106.

“Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry,” Revision A, February 1999, USEPA publication number EPA-821/R-98-002, NTIS document number PB99-121949, or Revision B, February 2010, USEPA publication number EPA-821/R-10-001, NTIS document number PB2011-100735, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: water.epa.gov/scitech/methods/cwa/methods_index.cfm. Revision A is also from the USEPA, National Service Center for Environmental Publications (NSCEP) website at www.epa.gov/nscep/index.html.

“Methods for Chemical Analysis of Water and Wastes,” Third Edition, March 1983, USEPA document number EPA-600/4-79-020, NTIS document number PB84-128677, referenced in 35 Ill. Adm. Code 725.192.

BOARD NOTE: Also available on the Internet as a viewable/printable HTML document from the USEPA website at: www.epa.gov/clariton/clhtml/pubtitleORD.html as document 600479002.

“North American Industry Classification System,” July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of “NAICS Code”) for the purposes of Section 720.142.

BOARD NOTE: Also available on the Internet from the Bureau of Census: www.census.gov/naics/2007/naicod07.htm.

“Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities,” August 1977, EPA-530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

“Screening Procedures for Estimating the Air Quality Impact of Stationary Sources,” October 1992, USEPA publication number EPA-454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206.

BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address:

www.epa.gov/scram001/guidance/guide/scrng.wpd.

“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (November 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

Method 0010 (November 1986) (Modified Method 5 Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0011 (December 1996) (Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and for Appendix I to 35 Ill. Adm. Code 726.

Method 0020 (November 1986) (Source Assessment Sampling System), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0023A (December 1996) (Sampling Method for Polychlorinated Dibenzop-Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.204.

Method 0030 (November 1986) (Volatile Organic Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0031 (December 1996) (Sampling Method for Volatile Organic Compounds (SMVOC)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0040 (December 1996) (Sampling of Principal Organic Hazardous Constituents from Combustion Sources Using Tedlar® Bags), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0050 (December 1996) (Isokinetic HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0051 (December 1996) (Midget Impinger HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0060 (December 1996) (Determination of Metals in Stack Emissions), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.206.

Method 0061 (December 1996) (Determination of Hexavalent Chromium Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, 35 Ill. Adm. Code 726.206, and Appendix I to 35 Ill. Adm. Code 726.

Method 1010A (November 2004) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1020B (November 2004) (Standard Test Methods for Flash Point by Setaflash (Small Scale) Closed-cup Apparatus), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1110A (November 2004) (Corrosivity Toward Steel), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

Method 1311 (November 1992) (Toxicity Characteristic Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721; for 35 Ill. Adm. Code 721.124, 728.107, and 728.140; and for Table T to 35 Ill. Adm. Code 728.

Method 1312 (November 1994) (Synthetic Precipitation Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1320 (November 1986) (Multiple Extraction Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1330A (November 1992) (Extraction Procedure for Oily Wastes), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9010C (November 2004) (Total and Amenable Cyanide: Distillation), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9012B (November 2004) (Total and Amenable Cyanide (Automated Colorimetric, with Off-Line Distillation)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9040C (November 2004) (pH Electrometric Measurement), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 9045D (November 2004) (Soil and Waste pH), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 724.934, 724.963, 725.934, and 725.963.

Method 9070A (November 2004) (n-Hexane Extractable Material (HEM) for Aqueous Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9071B (April 1998) (n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9095B (November 2004) (Paint Filter Liquids Test), USEPA-approved for 35 Ill. Adm. Code 720.110; Appendix I to 35 Ill. Adm. Code 721; and 35 Ill. Adm. Code 724.290, 724.414, 725.290, 725.414, 725.981, 727.290, and 728.132.

BOARD NOTE: Also available on the Internet for free download in segments in PDF format from the USEPA website at: www.epa.gov/SW-846.

OECD. Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France, +33 (0) 1 45 24 81 67 (www.oecd.org), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 (www.oecdwash.org):

OECD Guidance Manual. "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," 2009 (also called "Guidance Manual for the Control of Transboundary Movements of Recoverable Materials" in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008):

"Annex A: OECD Decision C(2001)107/FINAL, as Amended by C(2004)20; C(2005)141 and C(2008)156" (also called "Revision of Council Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," within the text of Annex A, and "Decision of the Council Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations" in the original OECD decision source document, C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002),

C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008)).

“Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure” (individually referred to as “Annex B to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 3 to OECD decision C(2001)107/FINAL, as amended as described above, together with the text of Annex IX (“List B”) to the “Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal” (“Basel Convention”).

“Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure” (individually referred to as “Annex C to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II (“Categories of Wastes Requiring Special Consideration”) and VIII (“List A”) to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA’s lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to “OECD C(2001)107/FINAL” in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

OECD Guideline for Testing of Chemicals, "Ready Biodegradability," Method 301B (July 17, 1992), "CO₂ Evolution (Modified Sturm Test)," referenced in 35 Ill. Adm. Code 724.414.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 708-498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986), referenced in 35 Ill. Adm. Code 724.293.

USDOD. Available from the United States Department of Defense:

"DOD Ammunition and Explosives Safety Standards" (DOD 6055.09-STD), as in effect on February 29, 2008, referenced in 35 Ill. Adm. Code 726.305.

"The Motor Vehicle Inspection Report" (DD Form 626), as in effect in March 2007, referenced in 35 Ill. Adm. Code 726.303.

"Requisition Tracking Form" (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303.

"The Signature and Tally Record" (DD Form 1907), as in effect in November 2006, referenced in 35 Ill. Adm. Code 726.303.

"Dangerous Goods Shipping Paper/Declaration and Emergency Response Information for Hazardous Materials Transported by Government Vehicles" (DD Form 836), as in effect in December 2007, referenced in 35 Ill. Adm. Code 726.303.

BOARD NOTE: DOD 6055.09-STD is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>. DD Form 1348, DD Form 1907, DD Form 836, and DOD 6055.09-STD are available on-line for download in pdf format from <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

USEPA, Office of Ground Water and Drinking Water. Available from United States Environmental Protection Agency, Office of Drinking Water, State Programs Division, WH 550 E, Washington, D.C. 20460:

"Inventory of Injection Wells," USEPA Form 7520-16 (Revised 8-01), referenced in 35 Ill. Adm. Code 704.148 and 704.283.

"Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells," USEPA publication number EPA-570/9-87-002, August 1987, referenced in 35 Ill. Adm. Code 730.165.

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch, USEPA (MD-14), Research Triangle Park, NC 27711:

“Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised,” October 1992, USEPA publication number EPA-450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.

BOARD NOTE: Also available for purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

USEPA Region 6. Available from United States Environmental Protection Agency, Region 6, Multimedia Permitting and Planning Division, 1445 Ross Avenue, Dallas, TX 75202 (phone: 214-665-7430):

“EPA RCRA Delisting Program—Guidance Manual for the Petitioner,” March 23, 2000, referenced in Section 720.122.

USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1103, rev 9/2003, supplemented as necessary with GSA Standard Form 1109, rev 09/1998), referenced in Section 726.303.

BOARD NOTE: Available on-line for download in various formats from www.gsa.gov/forms/forms.htm.

- b) Code of Federal Regulations. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, 202-783-3238:

10 CFR 20.2006-~~(2013)~~ (2014) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20-~~(2013)~~ (2014) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20-~~(2013)~~ (2014) (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71-~~(2013)~~, as amended at 78 Fed. Reg. 16922 (Mar. 19, 2013) (2014) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5-~~(2013)~~ (2014) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203-~~(2013)~~ (2014) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.3-~~(2013)~~ (2014) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10-~~(2013)~~ (2014) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000-~~(2013)~~ (2014) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii)-~~(2013)~~ (2014) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51-~~(2013)~~ (2014) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models," Revised 1986, USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741-~~(2013)~~ (2014) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60-~~(2013)~~, as amended at 78 Fed. Reg. 58415 (Sept. 19, 2013) and 78 Fed. Reg. 76753 (Dec. 19, 2013) (2014) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60-~~(2013)~~ (2014) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR 60-~~(2013)~~ (2014) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

Method 1 (Sample and Velocity Traverses for Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), referenced in 35 Ill. Adm. Code 726.205.

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 724.933, 725.933, and 726.205.

Method 2E (Determination of Landfill Gas Production Flow Rate), referenced in 35 Ill. Adm. Code 726.205.

Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), referenced in 35 Ill. Adm. Code 726.205.

Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), referenced in 35 Ill. Adm. Code 724.443 and 726.205.

Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), referenced in 35 Ill. Adm. Code 726.205.

Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), referenced in 35 Ill. Adm. Code 726.205.

Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 4 (Determination of Moisture Content in Stack Gases), referenced in 35 Ill. Adm. Code 726.205.

Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), referenced in 35 Ill. Adm. Code 726.205.

Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), referenced in 35 Ill. Adm. Code 726.205.

Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), referenced in 35 Ill. Adm. Code 726.205.

Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 724.934, 724.935, 724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in 35 Ill. Adm. Code 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 724.934 and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 61-~~(2013)~~ (2014) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61-~~(2013)~~ (2014) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61-~~(2013)~~ (2014) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63-~~(2013)~~, as amended at 78 Fed. Reg. 79317 (Dec. 30, 2013) (2014) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63-~~(2013)~~ (2014) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 724.984, 724.985, 725.985, and 725.986.

Subpart EEE of 40 CFR 63 (2000) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), referenced in 35 Ill. Adm. Code 703.280.

Subpart EEE of 40 CFR 63-~~(2013)~~ (2014) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63-~~(2013)~~ (2014) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63-~~(2013)~~ (2014) (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63-~~(2013)~~ (2014) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures)-~~(2013)~~ (2014), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70-~~(2013)~~ (2014) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2-~~(2013)~~ (2014) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257-~~(2013)~~ (2014) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257-~~(2013)~~ (2014) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG))

Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 721.105.

40 CFR 258-~~(2013)~~ (2014) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b)-~~(2013)~~ (2014) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151-~~(2013)~~ (2014) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261-~~(2013)~~ (2014) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53-~~(2013)~~ (2014) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54-~~(2013)~~ (2014) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55-~~(2013)~~ (2014) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56-~~(2013)~~ (2014) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57-~~(2013)~~ (2014) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262-~~(2013)~~ (2014) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151-~~(2013)~~ (2014) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264-~~(2013)~~ (2014) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264-~~(2013)~~ (2014) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264-~~(2013)~~ (2014) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264-~~(2013)~~ (2014) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

Appendix I to 40 CFR 265-~~(2013)~~ (2014) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265-~~(2013)~~ (2014) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265-~~(2013)~~ (2014) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265-~~(2013)~~ (2014) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266-~~(2013)~~ (2014) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

Section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners), referenced in 35 Ill. Adm. Code 726.200 and 726.204.

Section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure), referenced in 35 Ill. Adm. Code 726.204 and 726.206.

Section 7.0 (Statistical Methodology for Bevill Residue Determinations), referenced in 35 Ill. Adm. Code 726.212.

BOARD NOTE: Also available from NTIS (see above for contact information) as “Methods Manual for Compliance with BIF Regulations: Burning Hazardous Waste in Boilers and Industrial Furnaces,” December 1990, USEPA publication number EPA-530/SW-91-010, NTIS document number PB91-120006.

40 CFR 267.151-~~(2013)~~ (2014) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5-~~(2013)~~ (2014) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761-~~(2013)~~ (2014) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3-~~(2013)~~ (2014) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60-~~(2013)~~ (2014) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65-~~(2013)~~ (2014) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70-~~(2013)~~ (2014) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 (2013) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013), ~~and 78 Fed. Reg. 65454 (Oct. 31, 2013), and 79 Fed. Reg. 15033 (Mar. 18, 2014)~~ (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 (2013) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 (2013) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 (2013) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013), 78 Fed. Reg. 65454 (Oct. 31, 2013), ~~and 78 Fed. Reg. 69310 (Nov. 19, 2013)~~ and 79 Fed. Reg. 15033 (Mar. 18, 2014) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304 (2013) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart C of 49 CFR 172 (2013) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

Subpart F of 49 CFR 172 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) and 78 Fed. Reg. 65454 (Oct. 31, 2013) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 (2013) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 (2013) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 (2013) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 (2013) (Class 1—Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 (2013) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 (2013) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 (2013) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 (2013) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) and 79 Fed. Reg. 15033 (Mar. 18, 2014) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177.817 (2013) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

49 CFR 178 (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013), ~~and~~ 78 Fed. Reg. 65454 (Oct. 31, 2013), and 79 Fed. Reg. 15033 (Mar. 18, 2014) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 (2013) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 (2013) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 (2013) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 (2013) (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 (2013) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 (2013) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 (2013) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 (2013) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 (2013) (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 (2013) (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014) (2011), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j)) (2012), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60140) (2011), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1)) (2011), referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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- 721.APPENDIX Z Table to Section 721.102: Recycled Materials that Are Solid Waste

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4,

2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.101 Purpose and Scope

- a) This Part identifies those solid wastes that are subject to regulation as hazardous wastes under 35 Ill. Adm. Code 702, 703, and 722 through 728, and which are subject to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.). In this Part:
 - 1) Subpart A of this Part defines the terms “solid waste” and “hazardous waste,” identifies those wastes that are excluded from regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and establishes special management requirements for hazardous waste produced by conditionally exempt small quantity generators and hazardous waste that is recycled.
 - 2) Subpart B of this Part sets forth the criteria used to identify characteristics of hazardous waste and to list particular hazardous wastes.
 - 3) Subpart C of this Part identifies characteristics of hazardous wastes.
 - 4) Subpart D of this Part lists particular hazardous wastes.
- b) Limitations on definition of solid waste.
 - 1) The definition of solid waste contained in this Part applies only to wastes that also are hazardous for purposes of the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials (such as non-hazardous scrap, paper, textiles or rubber) that are not otherwise hazardous wastes and that are recycled.
 - 2) This Part identifies only some of the materials that are solid wastes and hazardous wastes under Sections 1004(5), 1004(27) and 7003 of RCRA. A material that is not defined as a solid waste in this Part, or is not a hazardous waste identified or listed in this Part, is still a hazardous waste for purposes of those Sections if, in the case of Section 7003 of RCRA, the statutory elements are established.
- c) For the purposes of Sections 721.102 and 721.106 the following definitions apply:
 - 1) A “spent material” is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.
 - 2) “Sludge” has the same meaning used in 35 Ill. Adm. Code 720.110.

- 3) A “by-product” is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public’s use and is ordinarily used in the form it is produced by the process.
- 4) A material is “reclaimed” if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of Sections 721.102(a)(2)(B) and 721.104(a)(23) and (a)(24) smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste found in 35 Ill. Adm. Code 726.200(d)(1) through (d)(3), and if the residuals meet the requirements specified in 35 Ill. Adm. Code 726.212.
- 5) A material is “used or reused” if either of the following is true:
 - A) It is employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or
 - B) It is employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment).
- 6) “Scrap metal” is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, or wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, or railroad box cars) that when worn or superfluous can be recycled.
- 7) A material is “recycled” if it is used, reused, or reclaimed.
- 8) A material is “accumulated speculatively” if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at

the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Section 721.104(c) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

BOARD NOTE: Various segments of this Part and 35 Ill. Adm. Code 720 use the verbal phrase “accumulated speculatively” and the noun phrase “speculative accumulation.” Some of those segments rely on this subsection (c)(8) definition of “speculatively accumulated” for definition of the “speculative accumulation.” The Board infers that USEPA intends that the verb phrase define the noun phrase: material that is accumulated speculatively is the subject of speculative accumulation.

- 9) “Excluded scrap metal” is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.
 - 10) “Processed scrap metal” is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and fines, drosses and related materials that have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (Section 721.104(a)(14))).
 - 11) “Home scrap metal” is scrap metal as generated by steel mills, foundries, and refineries, such as turnings, cuttings, punchings, and borings.
 - 12) “Prompt scrap metal” is scrap metal as generated by the metal working/fabrication industries, and it includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap metal is also known as industrial or new scrap metal.
- d) The Agency has inspection authority pursuant to Section 3007 of RCRA and Section 4 of the Environmental Protection Act [415 ILCS 5/4].
 - e) Electronic reporting. The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

~~BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3, 271.10(b), 271.11(b), and 271.12(h) (2010).~~

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3, 271.10(b), 271.11(b), and 271.12(h) (2014).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 721.104 Exclusions

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:
 - 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.
 - 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act [415 ILCS 5/12(f)] and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.
 - 3) Irrigation return flows.
 - 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
 - 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
 - 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).

- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
- A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B) of this Section, so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

- v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: “I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation.” The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency’s determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].
- 10) Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar’s sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.
 - 11) Nonwastewater splash condenser dross residue from the treatment of hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
 - 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-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 (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, gasification (as defined in 35 Ill. Adm. Code 720.110), or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B) of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D of this Part, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.

- B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A) of this Section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D of this Part; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.
- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
 - 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
 - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.

- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) Comparable fuels or comparable syngas fuels that meet the requirements of Section 721.138.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D of this Part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that the following is true:
 - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
 - B) The spent material is not accumulated speculatively;
 - C) Except as provided in subsection (a)(17)(D) of this Section, the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.
 - D) The Agency must allow by permit that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.

- i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.
- ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have runoff and runoff controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.
- iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

BOARD NOTE: See Subpart D of 35 Ill. Adm. Code 703 for the RCRA Subtitle C permit public notice requirements.

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
- F) For purposes of subsection (b)(7) of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:
- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste code D018);
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An “associated organic chemical manufacturing facility” is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. “Petrochemical recovered oil” is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
 - B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
 - i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded

zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).

- ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F) of this Section:
 - iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G) of this Section.
- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:
- i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii) of this Section.
 - ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary

materials under the conditions specified in this subsection (a)(20).

- iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
 - iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.
- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.
- F) A container used to store excluded secondary material must fulfill the following conditions:
- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) It must prevent run-on into the containment system.

BOARD NOTE: Subsections (a)(20)(F)(i) through (a)(20)(F)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(B)(1) through (a)(20)(ii)(B)(3). The Board added the preamble to these federal

paragraphs as subsection (a)(20)(F) to comport with Illinois Administrative Code codification requirements.

- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:
 - i) The name of the transporter and date of the shipment;
 - ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
 - iii) The type and quantity of excluded secondary material in each shipment.

BOARD NOTE: Subsections (a)(20)(G)(i) through (a)(20)(G)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(D)(1) through (a)(20)(ii)(D)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(G) to comport with Illinois Administrative Code codification requirements.

- 21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20) of this Section, provided that the following conditions are fulfilled:

- A) The fertilizers meet the following contaminant limits:

- i) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

- ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may

use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B) of this Section. Such records must at a minimum include the following:

- i) The dates and times product samples were taken, and the dates the samples were analyzed;
- ii) The names and qualifications of the persons taking the samples;
- iii) A description of the methods and equipment used to take the samples;
- iv) The name and address of the laboratory facility at which analyses of the samples were performed;
- v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
- vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).

22) Used CRTs.

- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
- B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
- C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
- D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).

- 23) Hazardous secondary materials managed in land-based units. Hazardous secondary material generated and reclaimed within the United States or its territories and managed in land-based units, as defined in 35 Ill. Adm. Code 720.110, is not a solid waste if the following conditions are fulfilled with regard to the material:
- A) The material is contained;
 - B) The material is a hazardous secondary material generated and reclaimed under the control of the generator, as defined in 35 Ill. Adm. Code 720.110;
 - C) The material is not speculatively accumulated, as defined in Section 721.101(c)(8);
 - D) The material is not otherwise subject to material-specific management conditions under subsection (a) of this Section when reclaimed, it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102), and it does not meet either of the listing descriptions for K171 or K172 waste in Section 721.132;
 - E) The reclamation of the material is legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143; and
 - F) In addition, a person claiming the exclusion under this subsection (a)(23) must provide notification of regulated waste activity, as required by 35 Ill. Adm. Code 720.142. (For hazardous secondary material managed in a non-land-based unit, see Section 721.102(a)(2)(B)).
- 24) Hazardous secondary materials transferred for off-site recycling. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G) of this Section:
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section ~~721.110~~ 721.101(c)(8).
 - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.

- C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed; the material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102); and the material must not fulfill either of the listing descriptions for K171 or K172 waste in Section 721.132.
- D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.
- E) The hazardous secondary material generator must satisfy each of the following conditions:
 - i) The hazardous secondary material must be contained.
 - ii) This subsection (a)(24)(E)(ii) applies when non-RCRA management of hazardous secondary material will occur at a reclamation facility or transfer facility. For the purposes of this subsection (a)(24), “non-Subtitle C management” is management of the hazardous secondary material that is not addressed under a RCRA Part B permit or under the interim status facility standards (of 35 Ill. Adm. Code 725 or similar regulations authorized by USEPA as equivalent to 40 CFR 265). Prior to arranging for transport of hazardous secondary materials to a reclamation facility where non-Subtitle C management will occur, the hazardous secondary material generator must make reasonable efforts to ensure that the reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that the reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will pass through an intermediate facility where non-RCRA management will occur, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of once every three years for the hazardous secondary material generator to claim the exclusion of this subsection (a)(24) and to send the hazardous secondary materials to a reclaimer and any intermediate facility. In

making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must make the series of affirmative determinations set forth in subsection (a)(24)(H) of this Section for each reclamation facility and intermediate facility that will manage its waste.

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(B) makes it clear that USEPA intends that the generator undertake this determination for each reclaimer that will manage its hazardous secondary material. The Board added a definition of “non-Subtitle C management” and substituted this term for the language “management of the hazardous secondary materials is not addressed under a RCRA Part B permit or interim status standards.” Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning. The Board moved the material from 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through (a)(24)(H)(v). This movement allowed compliance with codification requirements relating to the maximum permissible indent level.

- iii) The hazardous secondary material generator must execute a certification statement that includes the following language, together with the printed name and official title of an authorized representative of the hazardous secondary material generator, the authorized representative’s signature, and the date signed:

“I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to [insert the name of each reclamation facility and any intermediate facility that will manage the materials], reasonable efforts were made in accordance with 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) (and corresponding 40 CFR 261.4(a)(24)(v)(B)) to ensure that the hazardous secondary materials would be recycled legitimately and would be otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information.”

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(C) combines the requirements for records retention and availability for inspection with the requirement for certification. The Board combined the certification requirements from 40 CFR 261.4(a)(24)(v)(C), (a)(24)(v)(C)(1), and (a)(24)(v)(C)(2) in this single subsection (a)(24)(E)(iii). This combination allowed compliance with codification requirements relating to the maximum permissible indent level. The Board moved the records retention and availability for inspection requirements from 40 CFR 261.4(a)(24)(v)(C) to subsection (a)(24)(E)(iv) of this Section. This forced renumbering 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(E) as subsections (a)(24)(E)(v) and (a)(24)(E)(vi) of this Section. Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning.

- iv) The hazardous secondary material generator must maintain the following records for a minimum of three years: documentation and certification that the generator made reasonable efforts, prior to transferring hazardous secondary material, for each reclamation facility and, if applicable, intermediate facility where non-Subtitle C management of the hazardous secondary materials will occur. Documentation and certification must be made available, within 72 hours, or within any longer period of time specified by the Agency, upon request by the Agency.

BOARD NOTE: The Board moved the records retention and availability for inspection requirements of corresponding 40 CFR 261.4(a)(24)(v)(C) to this subsection (a)(24)(E)(iv).

- v) The hazardous secondary material generator must maintain certain records at the generating facility for a minimum of three years that document every off-site shipment of hazardous secondary materials. The documentation for each shipment must, at a minimum, include the following information about the shipment: the name of the transporter and date of the shipment; the name and address of each reclaimer and intermediate facility to which the hazardous secondary material was sent; and the type and quantity of hazardous secondary material in the shipment.

BOARD NOTE: The Board combined and moved the shipping documentation and records retention requirements

of corresponding 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(D)(1) through (a)(24)(v)(D)(3) to this single subsection (a)(24)(E)(v). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- vi) The hazardous secondary material generator must maintain at the generating facility, for a minimum of three years, for every off-site shipment of hazardous secondary materials, confirmations of receipt from each reclaimer and intermediate facility to which its hazardous secondary materials were sent. Each confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The generator may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).

BOARD NOTE: The Board moved the shipment confirmation documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(E) to this subsection (a)(24)(E)(vi).

- F) The reclaimer of hazardous secondary material or any intermediate facility, as defined in 35 Ill. Adm. Code 720.110, that manages material which is excluded from regulation pursuant to this subsection (a)(24) must satisfy all of the following conditions:
 - i) The owner or operator of a reclamation or intermediate facility must maintain at its facility for a minimum of three years records of every shipment of hazardous secondary material that the facility received and, if applicable, for every shipment of hazardous secondary material that the facility received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, contain the following information: the name of the transporter and date of the shipment; the name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility from which the facility received the hazardous secondary materials; the type and quantity of hazardous secondary material in the shipment; and, for hazardous secondary materials that the facility subsequently transferred off-site for further

reclamation after receiving it, the name and address of the (subsequent) reclaimer and any intermediate facility to which the facility sent the hazardous secondary material.

BOARD NOTE: The Board combined the provisions from 40 CFR 261.4(a)(24)(vi)(A) and (a)(24)(vi)(A)(1) through (a)(24)(vi)(A)(3) that enumerate the required information into this single subsection (a)(24)(F)(i). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- ii) The intermediate facility must send the hazardous secondary material to the reclaimers designated by the generator of the hazardous secondary materials.
- iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).
- iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An “analogous raw material” is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.
- v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C of this Part, or if the residuals themselves are specifically listed as hazardous waste in Subpart D of this Part, those residuals are hazardous waste.

The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.

- vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H of this Part.
- G) Any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24) must provide notification as required by 35 Ill. Adm. Code 720.142.
- H) For the purposes of subsection (a)(24)(E)(ii) of this Section, the hazardous secondary material generator must affirmatively determine that each of the following conditions is true for each reclamation facility and any intermediate facility that will manage the generator's hazardous secondary material:
- i) Available information indicates that the reclamation process is legitimate recycling, as determined pursuant to 35 Ill. Adm. Code 720.143. In making this determination, the hazardous secondary material generator may rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as on information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process. (By making this determination, the hazardous secondary material generator has also satisfied the requirement in 35 Ill. Adm. Code 720.143(a) that the generator demonstrate that the recycling is legitimate).
 - ii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has submitted the notification required by 35 Ill. Adm. Code 720.142, and these facilities have submitted the required proofs of financial assurance as required by the applicable of Section 721.243(a)(1), (b)(1), (c)(1), (d)(1), (e)(3), and (g) and notification of financial assurance pursuant to 35 Ill. Adm. Code 720.142(a)(5). In making this dual determination, the hazardous secondary material generator may rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements pursuant to 35 Ill. Adm. Code 720.142, including the requirement in 35

Ill. Adm. Code 720.142(a)(5) to notify the Agency whether the reclaimer or intermediate facility has financial assurance.

- iii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, and the facility has not been classified as a significant non-complier (SNC) with RCRA Subtitle C requirements. In making this determination, the hazardous secondary material generator may rely on the publicly available information from USEPA, the Agency, or the Office of the Attorney General. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, or if the facility has been classified as a SNC with RCRA Subtitle C requirements, the hazardous secondary material generator must have credible evidence that the facility will manage the hazardous secondary materials properly. In making this determination, the hazardous secondary material generator can obtain additional information from USEPA, the Agency, the Office of the Attorney General, or the facility itself which indicates that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the generator's hazardous secondary materials.

BOARD NOTE: USEPA or a state may make a formalized determination that a facility is a SNC (pronounced "snick") pursuant to USEPA's "Hazardous Waste Civil Enforcement Response Policy" (most recent version: December 2003, available from USEPA, Envirofacts Data Warehouse (www.epa.gov/compliance/resources/policies/civil/rcra/finalerp1203.pdf)). USEPA operates the online RCRAInfo database (www.epa.gov/enviro/html/rcris/) from which interested persons can learn whether a facility has significant federal enforcement action against it, or if it is a SNC.

- iv) Available information indicates that the reclamation facility and any intermediate facility used by the hazardous

secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material. In making this determination, the generator may rely on a description made by the reclamation facility or an independent third party of the equipment and trained personnel that the facility will use to manage and recycle the generator's hazardous secondary material.

- v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility has the permits required (if any) to manage the residuals. If the reclamation facility does not have required permits, the facility has a contract with an appropriately permitted facility to dispose of the residuals. If the reclamation facility does not have required permits or a contract with a permitted facility, the hazardous secondary material generator has credible evidence that the residuals will be managed in a manner that is protective of human health and the environment. In making these determinations, the hazardous secondary material generator may rely on publicly available information from USEPA or the Agency, or on information provided by the facility itself.

BOARD NOTE: The Board moved 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through (a)(24)(H)(v), which set forth the determinations mandated for the purposes of subsection (a)(24)(E)(ii). This movement allowed compliance with codification requirements relating to the maximum permissible indent level.

- 25) Hazardous secondary materials exported for recycling. Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, so long as the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) of this Section, except that the requirements of subsection (a)(24)(H)(ii) of this Section (requiring the use of publicly available information to verify that the facility has submitted required notifications) do not apply to foreign reclaimers and intermediate facilities, and the hazardous secondary material generator also complies with the following requirements:
 - A) The generator must notify the Agency and USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended

to be shipped off-site. This notification may cover export activities extending over a period up to 12 months in duration, but not longer. The notification must be in writing and signed by the hazardous secondary material generator, and must include the following information:

- i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
- ii) A description of the hazardous secondary material; the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; and the USDOT proper shipping name, hazard class, and identification number (UN or NA number) for each hazardous secondary material, as identified in 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111;
- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported, and the period of time over which the hazardous secondary material is to be exported;
- iv) The estimated total quantity of hazardous secondary material;
- v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), and the types of container (drums, boxes, tanks, etc.));
- vii) A description of the manner in which the hazardous secondary material will be reclaimed in the receiving country;
- viii) The name and address of each reclaimer, any intermediate facility, and any alternative reclaimer and intermediate facilities; and
- ix) The name of any transit countries through which the hazardous secondary material will be sent, together with a description of the approximate length of time the material will remain in each transit country and the nature of the

handling of the material while in the country (for purposes of this Section, the meanings of the terms “Acknowledgement of Consent,” “receiving country,” and “transit country” are as defined in 35 Ill. Adm. Code 722.151, with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).

B) Submission of notification of intent to export hazardous secondary material. Whether delivered by mail or hand delivery, the following words must prominently appear on the front of the envelope: “Attention: Notification of Intent to Export.”

i) A notification that is submitted by mail must be sent to the following mailing addresses:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division (Mail Code 2254A)
Environmental Protection Agency
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Permits Section
Division of Land Pollution Control
Illinois Environmental Protection Agency
P.O. Box 19276
Springfield, Illinois 62794-9276

ii) A notification that is hand-delivered must be delivered to the following addresses:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division
Environmental Protection Agency
Ariel Rios Bldg., Room 6144
12th St. and Pennsylvania Ave., NW.
Washington, DC 20004

Permits Section
Division of Land Pollution Control
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

- C) Except for a change in the telephone number submitted pursuant to subsection (a)(25)(A)(i) of this Section or a decrease in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv) of this Section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide the Agency and USEPA with a written re-notification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to subsection (a)(25)(A)(ix) of this Section and in the ports of entry to and departure from transit countries pursuant to subsection (a)(25)(A)(v) of this Section) has been obtained and the hazardous secondary material generator receives from USEPA an Acknowledgment of Consent reflecting the receiving country's consent to the changes.
- D) Upon request from the Agency or USEPA, the hazardous secondary material generator must furnish to the Agency and USEPA any additional information that a receiving country requests in order to respond to a notification.
- E) USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when USEPA determines that the notification satisfies the requirements of subsection (a)(25)(A) of this Section. When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A) of this Section, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.
- F) The export of hazardous secondary material pursuant to this subsection (a)(25) is prohibited, unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the hazardous secondary material, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vi) that it will send an Acknowledgment of Consent to the hazardous secondary material generator. When the receiving country objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA has stated that it will notify the hazardous secondary material generator in writing. USEPA has stated that it will also notify the hazardous secondary material generator of any responses from transit countries.

- G) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any receiving country or transit countries to a notification provided pursuant to subsection (a)(25)(A) of this Section within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the receiving country, the trans-boundary movement may commence. In such cases, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vii) that it will send an Acknowledgment of Consent to inform the hazardous secondary material generator that the receiving country and any relevant transit countries have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; re-notification and renewal of all consents is required for exports after that date.
- H) A copy of the Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the Acknowledgment of Consent.
- I) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another Acknowledgment of Consent.
- J) The hazardous secondary material generator must keep a copy of each notification of intent to export and each Acknowledgment of Consent for a period of three years following receipt of the Acknowledgment of Consent.
- K) Annual reporting of hazardous secondary material exports. A hazardous secondary material generator must file with the Agency and USEPA, no later than March 1 of each year, a report that summarizes the types, quantities, frequency, and ultimate destinations of all hazardous secondary materials exported during the previous calendar year. Annual reports must be sent to the addresses listed in subsection (a)(25)(B) of this Section (for mail or hand delivery, as appropriate) for submission notification of intent to export hazardous secondary material. The annual reports must include the following information:
 - i) The name, mailing and site addresses, and USEPA identification number (if applicable) of the hazardous secondary material generator;

- ii) The calendar year covered by the report;
- iii) The name and site address of each reclaimer and intermediate facility that received exported hazardous secondary material from the generator;
- iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; the USDOT hazard class for the material, as determined pursuant to 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (where applicable) for each transporter used; the total amount of hazardous secondary material shipped; and the number of shipments pursuant to each notification;
- v) A certification signed by the hazardous secondary material generator that states as follows:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

- L) Any person that claims an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.
- 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim,

except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
 - C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:
 - i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
 - F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.
- b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:

- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:
 - A) The facility receives and burns only the following waste:
 - i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or
 - ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
 - B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

BOARD NOTE: The U.S. Supreme Court determined, in *City of Chicago v. Environmental Defense Fund, Inc.*, 511 U.S. 328, 114 S. Ct. 1588, 128 L. Ed. 2d 302 (1994), that this exclusion and RCRA section 3001(i) (42 USC 6921(i)) do not exclude the ash from facilities covered by this subsection (b)(1) from regulation as a hazardous waste. At 59 Fed. Reg. 29372 (June 7, 1994), USEPA granted facilities managing ash from such facilities that is determined a hazardous waste under Subpart C of this Part until December 7, 1994 to file a Part A permit application pursuant to 35 Ill. Adm. Code 703.181. At 60 Fed. Reg. 6666 (Feb. 3, 1995), USEPA stated that it interpreted that the point at which ash becomes subject to RCRA Subtitle C regulation is when that material leaves the combustion building (including connected air pollution control equipment).

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
 - A) The growing and harvesting of agricultural crops, or
 - B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil

fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- 6) Chromium wastes.
 - A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B to this Part) because chromium is present or which are listed in Subpart D of this Part due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:
 - i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
 - ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - iii) The waste is typically and frequently managed in non-oxidizing environments.
 - B) The following are specific wastes that meet the standard in subsection (b)(6)(A) of this Section (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):
 - i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome

- tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
- iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
 - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
 - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

- B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
- i) Slag from primary copper processing;
 - ii) Slag from primary lead processing;
 - iii) Red and brown muds from bauxite refining;
 - iv) Phosphogypsum from phosphoric acid production;
 - v) Slag from elemental phosphorus production;
 - vi) Gasifier ash from coal gasification;
 - vii) Process wastewater from coal gasification;
 - viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
 - ix) Slag tailings from primary copper processing;
 - x) Fluorogypsum from hydrofluoric acid production;
 - xi) Process wastewater from hydrofluoric acid production;
 - xii) Air pollution control dust or sludge from iron blast furnaces;
 - xiii) Iron blast furnace slag;
 - xiv) Treated residue from roasting and leaching of chrome ore;
 - xv) Process wastewater from primary magnesium processing by the anhydrous process;
 - xvi) Process wastewater from phosphoric acid production;
 - xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.

- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.
- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (hazardous waste codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.
- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this Part, if these oil filters have been gravity hot-drained using one of the following methods:
- A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;
 - C) Dismantling and hot-draining; or

- D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
- A) The following conditions must be fulfilled:
- i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:
- | USEPA Hazardous Waste Numbers | Listing Effective Date |
|-------------------------------|------------------------|
| K169, K170, K171, and K172 | February 8, 1999 |
| K174 and K175 | May 7, 2001 |
| K176, K177, and K178 | May 20, 2002 |
| K181 | August 23, 2005 |
- ii) The solid wastes described in subsection (b)(15)(A)(i) of this Section were disposed of prior to the effective date of the listing (as set forth in that subsection);
- iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
- iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).
- B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, K178, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the

impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.

- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked “reserved.” This statement maintains structural parity with USEPA regulations.
- 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:
 - A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
 - C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:
 - i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

- ii) The documentation that the 180 day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or
 - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act²² (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.
- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more

than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.

d) Samples.

- 1) Except as provided in subsection (d)(2) of this Section, a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:
 - A) The sample is being transported to a laboratory for the purpose of testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
 - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B) of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
 - A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and

- ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
 - 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) of this Section.
- e) Treatability study samples.
- 1) Except as is provided in subsection (e)(2) of this Section, a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:
 - A) The sample is being collected and prepared for transportation by the generator or sample collector;
 - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
 - C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
 - 2) The exemption in subsection (e)(1) of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
 - A) The generator or sample collector uses (in “treatability studies”) no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
 - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;
 - C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) of this Section are met.

- i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or
 - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;
 - D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f) of this Section, or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) of this Section in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4) of this Section, for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B) of this Section, subject to the limitations of subsection (e)(3)(C) of this Section:

- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.
- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) of this Section are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F) of this Section. The generator or sample collector must apply to the Agency and provide in writing the following information:
- i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
 - iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also

include what procedures or equipment improvements have been made to protect against further breakdowns; and

- v) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) of this Section are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11) of this Section. Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
 - 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
 - 3) No more than a total of 10,000 kg of “as received” media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other “as received” hazardous waste is subject to initiation of treatment in all treatability studies in any single day. “As received” waste refers to the waste as received in the shipment from the generator or sample collector.
 - 4) The quantity of “as received” hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to “as received” hazardous waste.
 - 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for

treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
 - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of “as received” waste in storage each day;
 - E) The date the treatment study was initiated and the amount of “as received” waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
 - A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;

- C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:
- “Dredged material” has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- “Permit” means any of the following:
- A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control Act (33 USC 1344);
 - A permit issued by the Army Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413);
 - or
 - In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).
- h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon

sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:

- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable.

BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway, or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications.
 - A) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

“I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 USC 60101 et seq.) and regulations (49 CFR Parts 190 through 199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, as applicable, for injection into a

well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.).”

- B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

“I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the UIC Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730.”

- C) The signed certification statement must be kept on-site for no less than three years, and must be made available within 72 hours after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility’s publicly-available website (if such website exists) as a public notification with the title of “Carbon Dioxide Stream Certification” at the time the exclusion is claimed.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

- a) A generator is a conditionally exempt small quantity generator (CESQG) in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.
- b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this Section, a CESQG’s hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of Resource Conservation and Recovery Act (42 USC 6930), provided the generator complies with subsections (f), (g), and (j) of this Section.

- c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:
- 1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;
 - 2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;
 - 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
 - 4) Hazardous waste that is used oil managed pursuant to Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
 - 5) Hazardous waste that is spent lead-acid batteries managed pursuant to Subpart G of 35 Ill. Adm. Code 726;
 - 6) Hazardous waste that is universal waste managed pursuant to Section 721.109 and 35 Ill. Adm. Code 733; and
 - 7) Hazardous waste that is an unused commercial chemical product (that is listed in Subpart D of 35 Ill. Adm. Code 721 or which exhibits one or more characteristics in Subpart C of 35 Ill. Adm. Code 721) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to Section 722.313. For purposes of this subsection (c)(7), the term “eligible academic entity” has the meaning given that term in 35 Ill. Adm. Code 722.300.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill.

Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act (42 USC 6930).

- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e); or
- 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.

- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsection (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:
 - 1) 35 Ill. Adm. Code 722.111.
 - 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
 - 3) A CESQG may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid

waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;

- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal 40 CFR 257.5 through 257.30, incorporated by reference in 35 Ill. Adm. Code 720.111;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills one of the following conditions:
- i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or
 - ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.

- g) In order for hazardous waste generated by a CESQG in quantities of 100 kilograms or less of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) The hazardous waste determination requirements of 35 Ill. Adm. Code 722.111;
 - 2) The CESQG may accumulate hazardous waste on-site. If it accumulates at any time 1,000 kilograms or greater of the generator's hazardous waste, all of those accumulated wastes are subject to regulation pursuant to the special provisions of 35 Ill. Adm. Code 722 applicable to generators of greater than 100 kg and less than 1,000 kg of hazardous waste in a calendar month, as well as 35 Ill. Adm. Code 702, 703, and 723 through 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930). The time

period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;

- 3) A CESQG may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
- A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
 - E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal CESQG waste landfill disposal standards in 40 CFR 257.5 through 257.30;
- BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.
- F) The facility is one that fulfills the following conditions:
 - i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
 - ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or

- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.
- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.
- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.
- j) If a CESQG's hazardous wastes are mixed with used oil, the mixture is subject to the used oil standards in 35 Ill. Adm. Code 739. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section 721.138 Exclusion of Comparable Fuel and Syngas Fuel

- a) Specifications for excluded fuels. Wastes that meet specifications for comparable fuel or syngas fuel under subsection (a)(1) or (a)(2) of this Section, respectively, and the other requirements of this Section, are not solid wastes:
 - 1) Comparable fuel specifications.
 - A) Physical specifications.
 - i) Heating value. The heating value must exceed 5,000 Btu/lb (11,500 J/g).
 - ii) Viscosity. The viscosity must not exceed 50 cS, as fired.
 - B) Constituent specifications. For the compounds listed, the constituent specification levels and minimum required detection limits (where non-detect is the constituent specification) are set forth in the table in Appendix Y to this Part.
 - 2) Synthesis gas fuel specifications. Synthesis gas fuel (i.e., syngas fuel) that is generated from hazardous waste must fulfill the following requirements:
 - A) It must have a minimum Btu value of 100 Btu/Scf;

- B) It must contain less than 1 ppmv of total halogen;
 - C) It must contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N₂);
 - D) It must contain less than 200 ppmv of hydrogen sulfide; and
 - E) It must contain less than 1 ppmv of each hazardous constituent in the target list of constituents listed in Appendix H of this Part.
- 3) Blending to meet the specifications.
- A) Hazardous waste shall not be blended to meet the comparable fuel specification under subsection (a)(1) of this Section, except as provided by subsection (a)(3)(B) of this Section.
 - B) Blending to meet the viscosity specification. A hazardous waste blended to meet the viscosity specification for comparable fuel must fulfill the following requirements:
 - i) As generated, and prior to any blending, manipulation, or processing, the hazardous waste must meet the constituent and heating value specifications of subsections (a)(1)(A)(i) and (a)(1)(B) of this Section;
 - ii) The hazardous waste must be blended at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 722.134, 724, 725, or 727; and
 - iii) The hazardous waste must not violate the dilution prohibition of subsection (a)(6) of this Section.
- 4) Treatment to meet the comparable fuel specifications.
- A) A hazardous waste may be treated to meet the specifications for comparable fuel set forth in subsection (a)(1) of this Section, provided the treatment fulfills the following requirements:
 - i) The treatment destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;
 - ii) The treatment is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 722.134, 724, 725, or 727; and
 - iii) The treatment does not violate the dilution prohibition of subsection (a)(6) of this Section.

- B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a comparable fuel remain a hazardous waste.
- 5) Generation of a syngas fuel.
- A) A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of subsection (a)(2) of this Section, provided the processing fulfills the following requirements:
 - i) The processing destroys or removes the constituent listed in the specification or raises the heating value by removing or destroying constituents or materials;
 - ii) The processing is performed at a facility that is subject to the applicable requirements of 35 Ill. Adm. Code 722.134, 724, 725, or 727 or is an exempt recycling unit pursuant to 35 Ill. Adm. Code 721.106(c); and
 - iii) The processing does not violate the dilution prohibition of subsection (a)(6) of this Section.
 - B) Residuals resulting from the treatment of a hazardous waste listed in Subpart D of this Part to generate a syngas fuel remain a hazardous waste.
- 6) Dilution prohibition. A generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility must not in any way dilute a hazardous waste to meet the specifications of subsections (a)(1)(A)(i) or (a)(1)(B) of this Section for comparable fuel, or subsection (a)(2) of this section for Syngas.
- b) Implementation.
- 1) General.
 - A) Wastes that meet the specifications provided by subsection (a) of this Section for comparable fuel or syngas fuel are excluded from the definition of solid waste provided that the following requirements are met. For purposes of this Section, such materials are called “excluded fuel,” the person claiming and qualifying for the exclusion is called the “excluded fuel generator,” and the person burning the excluded fuel is called the “excluded fuel burner.”B) The person who generates the excluded fuel must claim the exclusion by complying with the conditions of this Section and keeping records necessary to document compliance with those conditions.

2) Notices.

A) Notice to the Agency.

- i) The generator must submit a one-time notice, except as provided by subsection (b)(2)(A)(iii) of this Section, to the Agency, certifying compliance with the conditions of the exclusion and providing documentation, as required by subsection (b)(2)(C) of this Section;

BOARD NOTE: This subsection (b)(2)(A)(i) corresponds with 40 CFR 261.38(c)(2)(i)(A) (2009). Due to limitations on the maximum indent levels allowed in the Illinois Administrative Code, the Board found it necessary to move 40 CFR 261.38(c)(2)(i)(A)(I) through (c)(2)(i)(A)(5) to appear as subsections (c)(2)(C)(i) through (c)(2)(C)(v) of this Section.

- ii) If there is a substantive change in the information provided in the one-time notice required under this subsection (b)(2)(A), the generator must submit a revised notification.
- iii) An excluded fuel generator must include an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed in notices for newly excluded fuel or for revised notices as required by subsection (b)(2)(A)(ii) of this Section.

B) Public notice. Prior to burning an excluded fuel, the burner must publish in a major newspaper of general circulation, local to the site where the fuel will be burned, a notice entitled “Notification of Burning a Fuel Excluded Under the Resource Conservation and Recovery Act” containing the following information:

- i) The name, address, and USEPA identification number of the generating facility;
- ii) The name and address of the burner and identification of the units that will burn the excluded fuel;
- iii) A brief, general description of the manufacturing, treatment, or other process generating the excluded fuel;
- iv) An estimate of the average and maximum monthly and annual quantity of the excluded fuel to be burned; and
- v) The name and mailing address of the Agency office to which the generator submitted a claim for the exclusion.

- C) The one-time notice required by subsection (b)(2)(A)(i) of this Section must certify compliance with the conditions of the exclusion and provide documentation, as follows:
- i) The name, address, and USEPA identification number of the person or facility claiming the exclusion;
 - ii) The applicable USEPA hazardous waste codes for the hazardous waste;
 - iii) The name and address of the units that meet the requirements of subsections (b)(3) and (c) of this Section that will burn the excluded fuel;
 - iv) An estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed, except as provided by subsection (b)(2)(A)(iii) of this Section; and
 - v) The following statement must be signed and submitted by the person claiming the exclusion or its authorized representative:

Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of 35 Ill. Adm. Code 721.138 have been met for all waste identified in this notification. Copies of the records and information required by 35 Ill. Adm. Code 721.138(b)(8) are available at the comparable or syngas fuel generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

BOARD NOTE: Subsections (b)(2)(C)(i) through (c)(2)(C)(v) are derived from 40 CFR 261.138(b)(2)(i)(A)(1) ~~and through~~ (b)(2)(i)(A)(5), which the Board has codified here to comport with Illinois Administrative Code format requirements.

- 3) Burning. The exclusion applies only if the fuel is burned in the following units that also must be subject to federal, State, and local air emission requirements, including all applicable federal hazardous air pollutant

emissions requirements implementing section 112 of the Clean Air Act (CAA) (42 USC 7412):

- A) Industrial furnaces, as defined in 35 Ill. Adm. Code 720.110;
 - B) Boilers, as defined in 35 Ill. Adm. Code 720.110, that are further defined as follows:
 - i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or
 - ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;
 - C) Hazardous waste incinerators subject to regulation pursuant to Subpart O of 35 Ill. Adm. Code 724 or Subpart O of 35 Ill. Adm. Code 725 and applicable CAA MACT standards.
 - D) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.
- 4) Fuel analysis plan for generators. The generator of ~~a~~an excluded fuel must develop and follow a written fuel analysis plan that describes the procedures for sampling and analysis of the material to be excluded. The plan must be followed and retained at the site of the generator claiming the exclusion.
- A) At a minimum, the plan must specify the following:
 - i) The parameters for which each excluded fuel will be analyzed and the rationale for the selection of those parameters;
 - ii) The test methods that will be used to test for these parameters;
 - iii) The sampling method that will be used to obtain a representative sample of the excluded fuel to be analyzed;
 - iv) The frequency with which the initial analysis of the excluded fuel will be reviewed or repeated to ensure that the analysis is accurate and up to date; and
 - v) If process knowledge is used in the determination, any information prepared by the generator in making such determination.

- B) For each analysis, the generator must also document the following:
- i) The dates and times that waste samples were obtained, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons who obtained the samples;
 - iii) A description of the temporal and spatial locations of the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any clean-up and sample preparation methods;
 - vi) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan that occurred;
 - vii) All laboratory results demonstrating whether the exclusion specifications have been met; and
 - viii) All laboratory documentation that supports the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in subsection (b)(9) of this Section and also provides for the availability of the documentation to the claimant upon request.
- C) A syngas fuel generator must submit for approval, prior to performing sampling, analysis, or any management of an excluded syngas fuel, a fuel analysis plan containing the elements of subsection (b)(4)(A) of this Section to the Agency. The approval of a fuel analysis plan must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the fuel analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.
- 5) Excluded fuel sampling and analysis.
- A) General. For each waste for which an exclusion is claimed under the specifications provided by subsection (a)(1) or (a)(2) of this Section, the generator of the waste must test for all the constituents

in Appendix H of this Part, except for those constituents that the generator determines, based on testing or knowledge, should not be present in the fuel. The generator is required to document the basis of each determination that a constituent with an applicable specification should not be present. The generator may not determine that any of the following categories of constituents with a specification in the table in Appendix Y to this Part should not be present:

- i) A constituent that triggered the toxicity characteristic for the constituents that were the basis for listing the secondary material as a hazardous waste, or constituents for which there is a treatment standard for the waste code in 35 Ill. Adm. Code 728.140;
 - ii) A constituent detected in previous analysis of the waste;
 - iii) Constituents introduced into the process that generates the waste; or
 - iv) Constituents that are byproducts or side reactions to the process that generates the waste.
- B) Use of process knowledge. For each waste for which the comparable fuel or syngas exclusion is claimed where the generator of the excluded fuel is not the original generator of the hazardous waste, the generator of the comparable or syngas fuel may not use process knowledge pursuant to subsection (b)(5)(A) of this Section and must test to determine that all of the constituent specifications of subsections (a)(1) and (a)(2) of this Section, as applicable, have been met.
- C) The excluded fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the excluded fuel. For the fuel to be eligible for exclusion, a generator must demonstrate the following:
- i) That the 95% upper confidence limit of the mean concentration for each constituent of concern is not above the specification level; and
 - ii) That the analyses could have detected the presence of the constituent at or below the specification level.

- D) Nothing in this subsection (b)(5) preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person that generates a solid waste to determine if that waste is a hazardous waste.
- E) In an enforcement action, the burden of proof to establish conformance with the exclusion specification must be on the generator claiming the exclusion.
- F) The generator must conduct sampling and analysis in accordance with the fuel its waste analysis plan developed pursuant to subsection (b)(4) of this Section.
- G) Viscosity condition for comparable fuel.
 - i) Excluded comparable fuel that has not been blended to meet the kinematic viscosity specification must be analyzed as generated.
 - ii) If hazardous waste is blended to meet the kinematic viscosity specification for comparable fuel, the generator must analyze the hazardous waste as generated to ensure that it meets the constituent and heating value specifications of subsection (a)(1) of this Section, and after blending, analyze the fuel again to ensure that the blended fuel meets all comparable fuel specifications.

BOARD NOTE: The Board found it necessary to combine the text of 40 CFR 261.38(b)(5)(vii)(B)(1) and (b)(5)(vii)(B)(2) together with the text of 40 CFR 261.38(b)(5)(vii)(B) to comport with the maximum indent level allowed by Illinois Administrative Code codification requirements.

- H) Excluded fuel must be retested, at a minimum, annually and must be retested after a process change that could change its chemical or physical properties in a manner that may affect conformance with the specifications.

BOARD NOTE: Any claim pursuant to this Section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the waste above the exclusion specifications.

- 6) This subsection (b)(6) corresponds with 40 CFR 261.38(b)(6), which USEPA has marked “reserved.” This statement maintains structural parity with the corresponding federal regulations.

- 7) Speculative accumulation. Excluded fuel must not be accumulated speculatively, as such is defined in 35 Ill. Adm. Code 721.101(c)(8).
- 8) Operating record. The generator must maintain an operating record on site containing the following information:
 - A) All information required to be submitted to the implementing authority as part of the notification of the claim:
 - i) The owner or operator name, address, and USEPA identification number of the person claiming the exclusion;
 - ii) For each excluded fuel, the USEPA hazardous waste codes that would be applicable if the material were discarded; and
 - iii) The certification signed by the person claiming the exclusion or his authorized representative;
 - B) A brief description of the process that generated the excluded fuel. If the comparable fuel generator is not the generator of the original hazardous waste, provide a brief description of the process that generated the hazardous waste;
 - C) The monthly and annual quantities of each fuel claimed to be excluded;
 - D) Documentation for any claim that a constituent is not present in the excluded fuel, as required pursuant to subsection (b)(5)(A) of this Section;
 - E) The results of all analyses and all detection limits achieved, as required pursuant to subsection (b)(5) of this Section;
 - F) If the comparable fuel was generated through treatment or blending, documentation of compliance with the applicable provisions of subsections (a)(3) and (a)(4) of this Section;
 - G) If the excluded fuel is to be shipped off-site, a certification from the burner, as required pursuant to subsection (b)(10) of this Section;
 - H) The fuel analysis plan and documentation of all sampling and analysis results as required by subsection (b)(4) of this Section; and
 - I) If the generator ships excluded fuel off-site for burning, the generator must retain for each shipment the following information on-site:

- i) The name and address of the facility receiving the excluded fuel for burning;
 - ii) The quantity of excluded fuel shipped and delivered;
 - iii) The date of shipment or delivery;
 - iv) A cross-reference to the record of excluded fuel analysis or other information used to make the determination that the excluded fuel meets the specifications, as required pursuant to subsection (b)(5) of this Section; and
 - v) A one-time certification by the burner, as required pursuant to subsection (b)(10) of this Section.
- 9) Records retention. Records must be maintained for a period of three years.
- 10) Burner certification to the generator. Prior to submitting a notification to the Agency, a generator of excluded fuel that intends to ship the excluded fuel off-site for burning must obtain a one-time written, signed statement from the burner that includes the following:
 - A) A certification that the excluded fuel will only be burned in an industrial furnace, industrial boiler, utility boiler, or hazardous waste incinerator, as required pursuant to subsection (b)(3) of this Section;
 - B) Identification of the name and address of the facility that will burn the excluded fuel; and
 - C) A certification that the state in which the burner is located is authorized to exclude wastes as excluded fuel under the provisions of 40 CFR 261.38.
- 11) Ineligible waste codes. Wastes that are listed as hazardous waste because of the presence of dioxins or furans, as set out in Appendix G of this Part, are not eligible for these exclusions, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to the full RCRA hazardous waste management requirements.
- 12) Regulatory status of boiler residues. Burning excluded fuel that was otherwise a hazardous waste listed under Sections 721.131 through 721.133 of this Part does not subject boiler residues, including bottom ash and emission control residues, to regulation as derived from hazardous wastes.
- 13) Residues in containers and tank systems upon cessation of operations.

- A) Liquid and accumulated solid residues that remain in a container or tank system for more than 90 days after the container or tank system ceases to be operated for storage or transport of excluded fuel product are subject to regulation under 35 Ill. Adm. Code 702, 703, 722 through 725, 727, and 728.
 - B) Liquid and accumulated solid residues that are removed from a container or tank system after the container or tank system ceases to be operated for storage or transport of excluded fuel product are solid wastes subject to regulation as hazardous waste if the waste exhibits a characteristic of hazardous waste under Sections 721.121 through 721.124 or if the fuel were otherwise a hazardous waste listed under Sections 721.131 through 721.133 when the exclusion was claimed.
 - C) Liquid and accumulated solid residues that are removed from a container or tank system and which do not meet the specifications for exclusion under subsection (a)(1) or (a)(2) of this Section are solid wastes subject to regulation as hazardous waste if either of the following conditions exist with regard to the residues:
 - i) The waste exhibits a characteristic of hazardous waste under Sections 721.121 through 721.124; or
 - ii) The fuel was otherwise a hazardous waste listed under Sections 721.131 through 721.133. The hazardous waste code for the listed waste applies to these liquid and accumulated solid residues.
- 14) Waiver of RCRA closure requirements. Interim status and permitted storage and combustion units, and generator storage units exempt from the permit requirements under 35 Ill. Adm. Code 722.134, are not subject to the closure requirements of 35 Ill. Adm. Code 724, 725, or 727, provided that the storage and combustion unit has been used to manage only hazardous waste that is subsequently excluded under the conditions of this Section, and that afterward will be used only to manage fuel excluded under this Section.
- 15) Spills and leaks.
- A) Excluded fuel that is spilled or leaked and that therefore no longer meets the conditions of the exclusion is discarded and must be managed as a hazardous waste if it exhibits a characteristic of hazardous waste under Sections 721.121 through 721.124 or if the fuel were otherwise a hazardous waste listed in Sections 721.131 through 721.133.

- B) For excluded fuel that would have otherwise been a hazardous waste listed in Sections 721.131 through 721.133 and which is spilled or leaked, the USEPA hazardous waste code for the listed waste applies to the spilled or leaked material.
- 16) In corresponding 40 CFR 261.38(b)(16), USEPA included the following disclaimer, which the Board quotes in full: “Nothing in this section preempts, overrides, or otherwise negates the provisions in CERCLA Section 103, which establish reporting obligations for releases of hazardous substances, or the Department of Transportation requirements for hazardous materials in 49 CFR parts 171 through 180.”
- c) Failure to comply with the conditions of the exclusion. An excluded fuel loses its exclusion if any person managing the fuel fails to comply with the conditions of the exclusion under this Section, and the material must be managed as a hazardous waste from the point of generation. In such situations, USEPA, the Agency, or any person may take enforcement action pursuant to section 31 of the Act [415 ILCS 5/31].

BOARD NOTE: Corresponding 40 CFR 261.38(c) provides that USEPA or an authorized state may take enforcement action pursuant to section 3008(a) of RCRA (42 USC 6927(a)). In Illinois, Section 31(a) and (d) of the Act [415 ILCS 5/31(a) and (d)] provide that the Agency or any person may pursue an enforcement action for violation of the Act or Board regulations.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 721.139 Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling

Used, broken CRTs are not solid waste if they meet the following conditions:

- a) Prior to CRT processing. These materials are not solid wastes if they are destined for recycling and they meet the following requirements:
- 1) Storage. The broken CRTs must be managed in either of the following ways:
 - A) They are stored in a building with a roof, floor, and walls, or
 - B) They are placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).
 - 2) Labeling. Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: “Used cathode ray tubes—contains leaded glass “ or “Leaded glass from

televisions or computers.” It must also be labeled with the following statement: “Do not mix with other glass materials.”

- 3) Transportation. The used, broken CRTs must be transported in a container meeting the requirements of subsections (a)(1)(B) and (a)(2) of this Section.
- 4) Speculative accumulation and use constituting disposal. The used, broken CRTs are subject to the limitations on speculative accumulation, as defined in subsection (c)(8) of this Section. If they are used in a manner constituting disposal, they must comply with the applicable requirements of Subpart C of 40 CFR 726, instead of the requirements of this Section.
- 5) Exports. In addition to the applicable conditions specified in subsections (a)(1) through (a)(4) of this Section, an exporter of used, broken CRTs must comply with the following requirements:
 - A) It must notify the Agency and USEPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or shorter period. The notification must be in writing, signed by the exporter, and include the following information:
 - i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the exporter of the CRTs.
 - ii) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.
 - iii) The estimated total quantity of CRTs specified in kilograms.
 - iv) All points of entry to and departure from each foreign country through which the CRTs will pass.
 - v) A description of the means by which each shipment of the CRTs will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.)).
 - vi) The name and address of the recycler ~~and~~ or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the name of any alternate recycler.

- vii) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.
 - viii) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.
- B) Notifications submitted. Whether ~~delivered~~ delivered by mail or hand-delivered, the following words must be prominently displayed on the front of any envelope containing an export notification: "Attention: Notification of Intent to Export CRTs."
- i) An export notification submitted to USEPA by mail must be sent to the following mailing address:

Office of Enforcement and Compliance Assurance

Office of Federal Activities, International
Compliance Assurance Division (Mail Code
2254A)
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

- ii) An export notification hand-delivered to USEPA must be sent to:

Office of Enforcement and Compliance Assurance
Office of Federal Activities, International
Compliance Assurance Division (Mail Code
2254A)
Environmental Protection Agency
Ariel Rios Bldg., Room 6144
1200 Pennsylvania Ave., NW
Washington, DC
- iii) An export notification submitted to the Agency by mail or hand-delivered must be sent to the following mailing address:

Illinois Environmental Protection Agency
Bureau of Land Pollution Control
1021 North Grand Ave East
P.O. Box 19276
Springfield, IL 62794-9276

- C) Upon request by the Agency or USEPA, the exporter must furnish to the Agency and USEPA any additional information which a receiving country requests in order to respond to a notification.
- D) USEPA has stated that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when the Agency and USEPA receives a notification that USEPA determines satisfies the requirements of subsection (a)(5)(A) of this Section. Where a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(5)(A) of this Section, USEPA has stated that it may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.
- E) The export of CRTs is prohibited, unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, USEPA has stated that it will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, USEPA has stated that it will notify the exporter in writing. USEPA has stated that it will also notify the exporter of any responses from transit countries.
- F) When the conditions specified on the original notification change, the exporter must provide the Agency and USEPA with a written renotification of the change, except for changes to the telephone number in subsection (a)(5)(A)(i) of this Section and decreases in the quantity indicated pursuant to subsection (a)(5)(A)(iii) of this Section. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to subsections (a)(5)(A)(iv) and (a)(5)(A)(viii) of this Section) and the exporter of CRTs receives from USEPA a copy of the Acknowledgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.
- G) A copy of the Acknowledgment of Consent to Export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.
- H) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with subsection (a)(5)(F) of this Section and obtain another Acknowledgment of Consent to Export CRTs.

- I) An exporter must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment.
- J) A CRT exporter must file with USEPA, no later than March 1 of each year, an annual report summarizing the quantities (in kilograms), frequency of shipment, and ultimate destinations (i.e., the facility or facilities where the recycling occurs) of all used CRTs exported during the previous calendar year. This annual report must also include the following:
- i) The name, USEPA identification number (if applicable), and mailing and site address of the exporter;
 - ii) The calendar year covered by the report;
 - iii) A certification signed by the CRT exporter that states as follows:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”
- K) Annual reports must be submitted to the office specified in subsection (a)(5)(B) of this Section. A CRT exporter must keep copies of each annual report for a period of at least three years from the due date of the report.

BOARD NOTE: Corresponding 40 CFR 261.39(a)(5) requires communications relating to export of CRTs between the exporter and USEPA. It is clear that USEPA intends to maintain its central role between the exporter and the export-receiving country and its granting authorization to export. Nevertheless, the Board has required the exporter submit to the Agency also whatever notifications it must submit to USEPA relating to the export. The intent is to facilitate the Agency's efforts towards assurance of compliance with the regulations as a whole, and not to require a separate authorization for export by the Agency.

- b) Requirements for used CRT processing. Used, broken CRTs undergoing CRT processing, as defined in 35 Ill. Adm. Code 720.110, are not solid waste if they meet the following requirements:

- 1) Storage. Used, broken CRTs undergoing CRT processing are subject to the requirement of subsection (a)(4) of this Section.
- 2) CRT processing.
 - A) All activities specified in the second and third paragraphs of the definition of "CRT processing" in 35 Ill. Adm. Code 720.110 must be performed within a building with a roof, floor, and walls; and

BOARD NOTE: The activities specified in the second and third paragraphs of the definition of "CRT processing" are "intentionally breaking intact CRTs or further breaking or separating broken CRTs" and "sorting or otherwise managing glass removed from CRT monitors."
 - B) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.
- c) Glass from CRT processing that is sent to CRT glass making or lead smelting. Glass from CRT processing that is destined for recycling at a CRT glass manufacturer or a lead smelter after CRT processing is not a solid waste unless it is speculatively accumulated, as defined in Section 721.101(c)(8).
- d) Use constituting disposal. Glass from CRT processing that is used in a manner constituting disposal must comply with the requirements of Subpart C of 35 Ill. Adm. Code 726 instead of the requirements of this Section.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 721.141 Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

- a) A ~~person-CRT exporter~~ that exports used, intact CRTs for reuse must send a ~~one-time~~ notification to the Agency and ~~the Regional Administrator of USEPA Region 5~~. This notification may cover export activities extending over a 12-month or lesser period.
 - 1) The notification must be in writing, signed by the exporter, and include a statement that the notifier plans to export used, intact CRTs for reuse; the notifier's name, address, and USEPA identification number (if applicable); and the name and phone number of a contact person. the following information:
 - A) Name, mailing address, telephone number, and USEPA identification number (if applicable) of the exporter of the used, intact CRTs;

- B) The estimated frequency or rate at which the used, intact CRTs are to be exported for reuse and the period of time over which they are to be exported;
- C) The estimated total quantity of used, intact CRTs specified in kilograms;
- D) All points of entry to and departure from each transit country through which the used, intact CRTs will pass, a description of the approximate length of time the used, intact CRTs will remain in that country, and the nature of their handling while there;
- E) A description of the means by which each shipment of the used, intact CRTs will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.);
- F) The name and address of the ultimate destination facility or facilities where the used, intact CRTs will be reused, refurbished, distributed, or sold for reuse and the estimated quantity of used, intact CRTs to be sent to each facility, as well as the name of any alternate destination facility or facilities;
- G) A description of the manner in which the used, intact CRTs will be reused (including reuse after refurbishment) in the foreign country that will be receiving the used, intact CRTs; and
- H) A certification signed by the CRT exporter that states as follows:

“I certify under penalty of law that the CRTs described in this notice are intact and fully functioning or capable of being functional after refurbishment and that the used CRTs will be reused or refurbished and reused. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

- 2) Notifications submitted by mail should be sent to the following mailing address:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division (Mail Code 2254A)

Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Hand-delivered notifications should be sent to the following address:

Office of Enforcement and Compliance Assurance
Office of Federal Activities
International Compliance Assurance Division (Mail Code 2254A)
Environmental Protection Agency
William Jefferson Clinton Building, Room 6144
1200 Pennsylvania Ave., NW
Washington, DC 20004

In either case, the following must be prominently displayed on the front of the envelope:

“Attention: Notification of Intent to Export CRTs.”

A notification submitted to the Agency by mail or hand-delivered must be sent to the following mailing address:

Illinois Environmental Protection Agency
Bureau of Land Pollution Control
1021 North Grand Ave East
P.O. Box 19276
Springfield, IL 62794-9276

- b) A ~~person~~-CRT exporter that exports used, intact CRTs for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported used, intact CRTs will be reused. This documentation must be retained for a period of at least three years from the date the CRTs were exported. If the documents are written in a language other than English, a CRT exporter of used, intact CRTs sent for reuse must provide both the original, non-English version of the normal business records, as well as a third-party translation of the normal business records into English, within 30 days after a request by USEPA.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 722
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

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SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE DETERMINATION AND ACCUMULATION OF UNWANTED MATERIAL FOR LABORATORIES OWNED BY ELIGIBLE ACADEMIC ENTITIES

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- 722.312 Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal Facility
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722.APPENDIX A Hazardous Waste Manifest

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. 17763, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. _____, effective _____.

SUBPART B: THE MANIFEST

Section 722.120 General Requirements

- a) Manifest form required.
 - 1) _____ A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment,

storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

2) This subsection (a)(2) corresponds with 40 CFR 262.20(a)(2), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.

3) E-Manifest. In lieu of using the manifest form specified in subsection (a)(1) of this Section, a person required to prepare a manifest under subsection (a)(1) of this Section may prepare and use an e-Manifest, provided that the person complies with the following requirements:

A) Section 722.124 for use of e-Manifests; and

B) 40 CFR 3.10, incorporated by reference in 35 Ill. Adm. Code 720.111, for the reporting of electronic documents to USEPA.

- b) A generator must designate on the manifest one receiving facility that is permitted to handle the waste described on the manifest.
- c) A generator may also designate on the manifest one alternate receiving facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
- d) If the transporter is unable to deliver the hazardous waste to the designated receiving facility or the alternate facility, the generator must either designate another receiving facility or instruct the transporter to return the waste.
- e) The requirements of this Subpart B do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1,000 kg in a calendar month where the following conditions are fulfilled:
 - 1) The waste is reclaimed under a contractual agreement that specifies the type of waste and frequency of shipments;
 - 2) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and
 - 3) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.

- f) The requirements of this Subpart B and Section 722.132(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 35 Ill. Adm. Code 723.110(a), the generator or transporter must comply with the requirements for transporters set forth in 35 Ill. Adm. Code 723.130 and 723.131 in the event of a discharge of hazardous waste on a public or private right-of-way.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 722.124 Use of the Electronic Manifest

- a) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, and transmitted in accordance with Section 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 721 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 721 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
 - 3) Any requirement in any provision of 35 Ill. Adm. Code 721 through 728 for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed e-Manifest in the generator's account on the national e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized Agency inspector.
 - 4) No generator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the generator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the generator bears no responsibility.

BOARD NOTE: The Board has rendered the language "and requirement in these regulations" in corresponding 40 CFR 722.124(a) and (a)(1) through (a)(3) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a). The Board intends that use of the e-

Manifest System have the same effect in Illinois as it would where the federal requirements directly apply.

- b) A generator may participate in the e-Manifest System either by accessing the e-Manifest System from its own electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.
- c) Restriction on use of e-Manifests. A generator may prepare an e-Manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the e-Manifest System.
- d) Requirement for one printed copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a generator originating an e-Manifest must also provide the initial transporter with one printed copy of the e-Manifest.
- e) Special procedures when e-Manifest is unavailable. If a generator has prepared an e-Manifest for a hazardous waste shipment, but the e-Manifest System becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (USEPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions referenced in Appendix A to this Part, and use these paper forms from this point forward in accordance with the requirements of Section 722.123.
- f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an e-Manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the generator must also sign with an ink signature the generator or offeror certification on the printed copy of the manifest provided under subsection (d) of this Section.
- g) Imposition of user fee. A generator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination of each e-Manifest. USEPA shall maintain and update from time-to-time the current schedule of e-Manifest user fees, which shall be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System.

BOARD NOTE: USEPA stated in corresponding 40 CFR 262.24(g) that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.

(Source: Added at 39 Ill. Reg. _____, effective _____)

Section 722.125 Electronic Manifest Signatures

Electronic signature methods for the e-Manifest System must fulfill the following criteria:

- a) The signature must be a legally valid and enforceable signature under applicable USEPA and other federal requirements pertaining to electronic signatures; and
- b) The signature must be a method that is designed and implemented in a manner that USEPA considers to be as cost-effective and practical as possible for the users of the e-Manifest System.

(Source: Added at 39 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 723
STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS
WASTE

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SUBPART B: COMPLIANCE WITH THE MANIFEST SYSTEM AND
RECORDKEEPING

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723.131	Discharge Cleanup

AUTHORITY: Implementing Section 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11961, effective July 24, 1985; amended in R86-19 at 10 Ill. Reg. 20718, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11969, effective July 14, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 17959, effective October 14, 2011; amended in R15-1 at 39 Ill. Reg. _____, effective _____.

SUBPART B: COMPLIANCE WITH THE MANIFEST SYSTEM AND RECORDKEEPING

Section 723.120 The Manifest System

- a) No acceptance without a manifest.
 - 1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-22A) signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, or is provided with an e-Manifest that is obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3) and signed with a valid and enforceable electronic signature as described in 35 Ill. Adm. Code 722.125.
 - 2) Exports.
 - A) In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept such waste from a primary exporter or other person if the transporter knows that the shipment does not conform to the USEPA Acknowledgement of Consent; and unless, in addition to a manifest signed by the generator ~~as provided in accordance with~~ in accordance with this Section, the transporter must also be provided with a USEPA Acknowledgement of Consent that, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).
 - B) For exports of hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste

without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.

- 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.
- 4) Use of e-Manifest—legal equivalence to paper forms for participating transporters. E-Manifests that are obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.
 - A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - B) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
 - C) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that, to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a hazardous waste transporter must carry one printed copy of the e-Manifest on the transport vehicle.
 - D) Any requirement in 35 Ill. Adm. Code 720 through 728 for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an e-Manifest in the transporter's account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector.

E) No transporter may be held liable for the inability to produce an e-Manifest for inspection under this Section if that transporter can demonstrate that the inability to produce the e-Manifest is exclusively due to a technical difficulty with the USEPA e-Manifest System for which the transporter bears no responsibility.

BOARD NOTE: The Board has rendered the language “any requirement in these regulations” in corresponding 40 CFR 723.20(a)(4)(A) through (a)(4)(D) as “any requirement in any provision of 35 Ill. Adm. Code 720 through 728” in the appropriate segments of this subsection (a)(4).

- 5) A transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter’s own electronic equipment, or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.
- 6) Special procedures when e-Manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, then the following requirements apply:
- A) The transporter in possession of the hazardous waste when the e-Manifest becomes unavailable must reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to subsection (a)(4)(C)(i) of this Section, or obtain and complete another paper manifest for this purpose. The transporter must reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.
- B) On each printed copy, the transporter must include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the e-Manifest System, must include (if not pre-printed on the replacement manifest) the manifest tracking number of the e-Manifest that is replaced by the paper manifest, and must also include a brief explanation why the e-Manifest was not available for completing the tracking of the shipment electronically.
- C) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.

- D) From the point at which the e-Manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies must be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.
- 7) Special procedures for electronic signature methods undergoing tests. If a transporter using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter must sign the e-Manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with subsection (a)(4)(C)(i) of this Section. This printed copy bearing the generator's and transporter's ink signatures must also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy must be delivered to the designated facility with the waste materials.
- 8) Imposition of user fee for e-Manifest use. A transporter that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. USEPA has stated that it will maintain and update from time-to-time the current schedule of e-Manifest user fees, which must be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has stated that it will publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.
- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.
- d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
- 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;

- 2) It must retain one copy of the manifest in accordance with Section 723.122; and
 - 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.
- e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
- 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;
 - 2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste;
 - 3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;
 - 4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
 - 5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.
- f) For shipments involving rail transportation, the following requirements apply instead of subsections (c), (d), and (e), which do not apply:
- 1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:
 - A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;
 - B) It must return a signed copy of the manifest to the non-rail transporter;
 - C) It must forward at least three copies of the manifest to the following entities:
 - i) The next non-rail transporter, if any;
 - ii) The designated facility, if the shipment is delivered to that facility by rail; or

- iii) The last rail transporter designated to handle the waste in the United States;
 - D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.
- 2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.
- 3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:
 - A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.
- 4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:
 - A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and
 - B) It must retain a copy of the manifest in accordance with Section 723.122.
- 5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.
- g) Transporters that transport hazardous waste out of the United States must do the following:
 - 1) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;
 - 2) Retain one copy in accordance with Section 723.122(d);
 - 3) Return a signed copy of the manifest to the generator; and

- 4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.
- h) A transporter transporting hazardous waste from a generator that generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste in a calendar month need not comply with this Section or Section 723.122 provided that:
- 1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);
 - 2) The transporter records, on a log or shipping paper, the following information for each shipment:
 - A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.112) of the generator of the waste;
 - B) The quantity of waste accepted;
 - C) All shipping information required by the United States Department of Transportation;
 - D) The date the waste is accepted; and
 - 3) The transporter carries this record when transporting waste to the reclamation facility; and
 - 4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 723.125 Electronic Manifest Signatures

- a) e-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.
- b) This subsection (b) corresponds with 40 CFR 263.25(b), a provision that USEPA has marked “reserved.” This statement maintains structural consistency with the corresponding federal rule.

(Source: Added at 39 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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724.APPENDIX I	Groundwater Monitoring List

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17773, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. _____, effective _____.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.171 Use of Manifest System

- a) Receipt of manifested hazardous waste.
- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) of this Section, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
 - 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) ~~The owner, operator, or agent~~ must sign and date, by hand, each copy of the manifest;
 - B) ~~The owner, operator, or agent~~ must note any discrepancies (as defined in Section ~~725.172~~ 725.172) on each copy of the manifest;
 - C) ~~The owner, operator, or agent~~ must immediately give the transporter at least one copy of the manifest;
 - D) ~~The owner, operator, or agent~~ must send a copy (Page 3) of the manifest to the generator within 30 days after delivery; ~~and~~
 - E) Within 30 days after delivery, the owner, operator, or agent must send the top copy (Page 1) of the manifest to the e-Manifest System for purposes of data entry and processing. In lieu of mailing this paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to USEPA under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and
 - ~~E~~F) ~~The owner, operator, or agent~~ must retain at the facility a copy of each manifest for at least three years after the date of delivery.
 - 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the

following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

- b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;
- BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.
- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and
- BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).
- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators.

Therefore, the provisions of Section 722.134 only apply to owners or operators that are shipping hazardous waste that they generated at that facility.

- d) Within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the

retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.

- 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.

- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.

- h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
 - 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
 - 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.

- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed

copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.

- j) Imposition of user fee for e-Manifest use. An owner or operator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection 724.171(a)(2)(E). USEPA has stated that it would maintain and update from time-to-time the current schedule of e-Manifest System user fees, which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.
- k) E-Manifest signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART H: FINANCIAL REQUIREMENTS

Section 724.241 Definitions of Terms as Used in This Subpart

For the purposes of this Subpart H, the following terms have the given meanings:

- a) “Closure plan” means the plan for closure prepared in accordance with the requirements of Section 724.212.
- b) “Current closure cost estimate” means that the most recent of the estimates prepared in accordance with Section 724.242(a), (b), and (c).
- c) “Current post-closure cost estimate” means the most recent of the estimates prepared in accordance with Section 724.244(a), (b), and (c).
- d) “Parent corporation” means a corporation that directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a “subsidiary” of the parent corporation.
- e) “Post-closure plan” means the plan for post-closure care prepared in accordance with the requirements of Sections 724.217 through 724.220.
- f) The following terms are used in the specifications for the financial test for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

“Assets” means all existing and all probable future economic benefits obtained or controlled by a particular entity.

“Current assets” means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

“Current liabilities” means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

“Current plugging and abandonment cost estimate” means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b), and (c).

“Independently audited” refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

“Liabilities” means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

“Net working capital” means current assets minus current liabilities.

“Net worth” means total assets minus total liabilities and is equivalent to owner’s equity.

“Tangible net worth” means the tangible assets that remain after deducting liabilities; such assets would not include intangibles, such as goodwill and rights to patents or royalties.

- g) In the liability insurance requirements the terms “bodily injury” and “property damage” have the meanings given below. The Board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

“Accidental occurrence” means an accident, including continuous or repeated exposure to conditions, that results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

“Bodily injury” means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities that, consistent with standard

insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

BOARD NOTE: Derived from ~~40-CFR 264.141 (2010)~~, the Insurance Services Office, Inc. definition of this term.

“Environmental damage” means the injurious presence in or upon land, the atmosphere, or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This term is used in the definition of “pollution incident.”

“Legal defense costs” means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

“Nonsudden accidental occurrence” means an occurrence that takes place over time and involves continuous or repeated exposure.

“Pollutants” means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of “pollution incident.”

“Pollution incident” means emission, discharge, release, or escape of pollutants into or upon land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release, or escape results in “environmental damage.” The entirety of any such emission, discharge, release, or escape must be deemed to be one “pollution incident.”

“Waste” includes materials to be recycled, reconditioned, or reclaimed. The term “pollution incident” includes an “occurrence.”

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of “property damage.”

“Property damage” means as follows:

Either of the following:

Physical injury to, destruction of or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use or rendered inaccessible because of a “pollution incident.”

This term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

~~BOARD NOTE: Derived from 40 CFR 264.141 (2010).~~

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.

“Sudden accidental occurrence” means an occurrence that is not continuous or repeated in nature.

- h) “Substantial business relationship” means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A “substantial business relationship” must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the owner or operator that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party. “Applicable state law,” as used in this subsection (h), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

BOARD NOTE: Derived from 40 CFR 264.141(h)-(2010) (2014) and the discussion at 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 725.141(h) and 727.240(b)(8). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 39 Ill. Reg. _____, effective _____)

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 725
INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF
HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL
FACILITIES

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725.APPENDIX D	Tests for Significance

- 725.APPENDIX E Examples of Potentially Incompatible Wastes
 725.APPENDIX F Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. _____, effective _____.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section 725.171 Use of Manifest System

- a) Receipt of manifested hazardous waste.

- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) of this Section, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

- 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) ~~⌘~~The owner, operator, or agent must sign and date, by hand, each copy of the manifest;

 - B) ~~⌘~~The owner, operator, or agent must note any discrepancies (as defined in ~~Section 35 Ill. Adm. Code 725.172~~ 724.172) on each copy of the manifest;

 - C) ~~⌘~~The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;

 - D) ~~⌘~~The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery; ~~and~~

 - E) Within 30 days after delivery, the owner, operator, or agent must send the top copy (Page 1) of the manifest to the e-Manifest System for purposes of data entry and processing. In lieu of mailing this paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to the e-Manifest System operator under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and

 - ~~⌘F)~~ ~~⌘~~The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.

- 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:

- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
- 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
- 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.134 apply only to owners or operators that are shipping hazardous waste which they generated at that facility.

d) Within three working days of the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the

movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other countries concerned. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.

- f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
 - 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can

demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.

- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
- h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
 - 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
- j) Imposition of user fee for e-Manifest use. An owner or operator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that

owners or operators must submit to the e-Manifest System operator under subsection 725.171(a)(2)(E). USEPA has stated that it would maintain and update from time-to-time the current schedule of e-Manifest System user fees, which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.

- k) E-Manifest signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART H: FINANCIAL REQUIREMENTS

Section 725.241 Definitions of Terms as Used in this Subpart H

- a) “Closure plan” means the plan for closure prepared in accordance with the requirements of Section 725.212.
- b) “Current closure cost estimate” means the most recent of the estimates prepared in accordance with Sections 725.242(a), (b), and (c).
- c) “Current post-closure cost estimate” means the most recent of the estimates prepared in accordance with Sections 725.244(a), (b), and (c).
- d) “Parent corporation” means a corporation that directly owns at least 50 percent of the voting stock of the corporation that is the facility owner or operator; the latter corporation is deemed a “subsidiary” of the parent corporation.
- e) “Post-closure plan” means the plan for post-closure care prepared in accordance with the requirements of Sections 725.217 through 725.220.
- f) The following terms are used in the specifications for the financial tests for closure, post-closure care, and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

“Assets” mean all existing and all probable future economic benefits obtained or controlled by a particular entity.

“Current assets” mean cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

“Current liabilities” means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

“Current plugging and abandonment cost estimate” means the most recent of the estimates prepared in accordance with 35 Ill. Adm. Code 704.212(a), (b), and (c).

“Independently audited” refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

“Liabilities” means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

“Net working capital” means current assets minus current liabilities.

“Net worth” means total assets minus total liabilities and is equivalent to owner’s equity.

“Tangible net worth” means the tangible assets that remain after deducting liabilities; such assets would not include intangibles, such as goodwill and rights to patents or royalties.

- g) In the liability insurance requirements the terms “bodily injury” and “property damage” have the meanings given below. The Board intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

“Accidental occurrence” means an accident, including continuous or repeated exposure to conditions, that results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

“Bodily injury” means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these at any time. However, this term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.

“Environmental damage” means the injurious presence in or upon land, the atmosphere or any watercourse or body of water of solid, liquid, gaseous, or thermal contaminants, irritants, or pollutants.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This term is used in the definition of “pollution incident.”

“Legal defense costs” means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

“Nonsudden accidental occurrence” means an occurrence that takes place over time and involves continuous or repeated exposure.

“Pollutants” means any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of “pollution incident.”

“Pollution incident” means emission, discharge, release or escape of pollutants into or upon land, the atmosphere, or any watercourse or body of water, provided that such emission, discharge, release, or escape results in “environmental damage.” The entirety of any such emission, discharge, release, or escape must be deemed to be one “pollution incident.”

“Waste” includes materials to be recycled, reconditioned, or reclaimed. The term “pollution incident” includes an “occurrence.”

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term. This definition is used in the definition of “property damage.”

“Property damage” means as follows:

Either of the following:

Physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or

Loss of use of tangible property that is not physically injured, destroyed, or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a “pollution incident.”

This term does not include those liabilities that, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage.

BOARD NOTE: Derived from the Insurance Services Office, Inc. definition of this term.

“Sudden accidental occurrence” means an occurrence that is not continuous or repeated in nature.

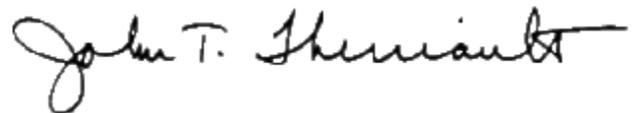
- h) “Substantial business relationship” means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A “substantial business relationship” must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that the Agency can reasonably determine that a substantial business relationship currently exists between the guarantor and the owner or operator that is adequate consideration to support the obligation of the guarantee relating to any liability towards a third-party. “Applicable state law,” as used in this subsection (h), means the laws of the State of Illinois and those of any sister state that govern the guarantee and the adequacy of the consideration.

BOARD NOTE: Derived from 40 CFR 265.141(h) ~~(2010)~~ (2014) and the discussion at 53 Fed. Reg. 33938, 33941-33943 (Sep. 1, 1988). This term is also independently defined in 35 Ill. Adm. Code 724.141(h) and 727.240(b)(8). Any Agency determination that a substantial business relationship exists is subject to Board review pursuant to Section 40 of the Act [415 ILCS 5/40].

(Source: Amended at 39 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion on December 18, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board