

ILLINOIS POLLUTION CONTROL BOARD

October 1, 2020

IN THE MATTER OF: )  
RCRA SUBTITLE C UPDATE, USEPA ) R21-6  
AMENDMENTS (January 1, 2020 through ) (Identical-in-Substance Rulemaking - Land)  
June 30, 2020) )

Proposed Rule. Proposal for Public Comment.

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

The Board today proposes amendments to the Illinois hazardous waste rules that are identical-in-substance (IIS) to amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2020.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2018)) requires the Board to adopt hazardous waste rules that are IIS to USEPA's RCRA Subtitle C (42 U.S.C. §§ 6921 *et seq.* (2017)) rules. Section 22.4(a) requires the Board to use the IIS rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2018)). Section 22.4(a) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) (5 ILCS 100/5-35 and 5-40 (2018)) do not apply to the Board's adoption of IIS regulations.

Adopting USEPA's revised RCRA Subtitle C rules requires amending 35 Ill. Adm. Code 720 and 726.

The Board initiates limited non-substantive revisions and corrections that the Board finds are necessary.

The Board submits the proposed amendments for publication in the *Illinois Register* and will accept public comments for 45 days after publication. The Board will then adopt the final amendments. The Board requests comment on the proposed amendments, specifically posing 14 questions below at pages 3 and 5-6.

**PUBLIC COMMENTS**

The Board urges careful review of the proposed amendments and invites public comment on them. The Board will receive public comments until 45 days after the proposed amendments appear in the *Illinois Register*. Interested persons should submit their comments to the Clerk of the Board and marked with docket R21-6.

The Board requests comments on specific amendments in the discussions below. For convenience, the Board lists each of those requests below at pages 3 and 5-6.

**SUMMARY OF PROPOSED AMENDMENTS**

The following subsections summarize the Board's actions today. More extended discussions follow the summaries below.

### **Federal Regulations Implemented**

USEPA took one action that requires corresponding amendments to the Illinois hazardous waste rules.

On January 14, 2020, USEPA revised a method for monitoring emissions of air pollutants. To accommodate the revised method, USEPA revised air pollution control rules, including one in its standards for management of hazardous waste burned in boilers and industrial furnaces. The amendments require Board action.

Discussion below considers adding the USEPA amendments into the Illinois rules. The discussion outlines significant deviations from the literal USEPA text but does not consider minor deviations. Table 1 of the IIS Rulemaking Addendum (Proposed) (IIS-RA(P)) briefly describes all deviations from the literal text of USEPA's rules.

### **Miscellaneous Board-Initiated Corrections**

The Board determines that limited corrections to the text of various rules are needed. Many corrections are stylistic changes that the Board routinely makes at the request of JCAR. Others conform rules to Board stylistic preferences.

Discussion below is limited to possible further updates to the incorporations by reference (IBRs). Table 2 lists all Board-initiated corrections and revisions not directly based on USEPA's January 14, 2020 amendments.

### **DISCUSSION OF THE USEPA ACTION IN THIS RULEMAKING**

The following discussion considers the USEPA action prompting Board action in this rulemaking.

#### **Revised USEPA Method 23—January 14, 2020 (85 Fed. Reg. 2234)**

On January 14, 2020 (85 Fed. Reg. 2234), USEPA revised USEPA Method 23 for determining polychlorinated dibenzo-*p*-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) in air emissions from stationary sources. USEPA Method 23 is codified in appendix A-7 to 40 C.F.R. 60.

USEPA adopted ancillary amendments. USEPA revised its standards of performance for new stationary sources (NSPS), its categorical national emission standards for hazardous air pollutants (NESHAPs), and its standards for management of hazardous waste burned in boilers and industrial furnaces.

The revisions to USEPA air standards are not directly within the Board's RCRA Subtitle C IIS mandate. Those rules, however, are incorporated by reference in 35 Ill. Adm. Code 720.111. Updating those IBRs to include USEPA's January 14, 2020 actions will complete Board rulemaking made necessary by those actions.

The Board must revise a single RCRA Subtitle C rule to complete action on USEPA's January 14, 2020 amendments to the hazardous waste management standards for boilers and industrial furnaces in 40 C.F.R. § 266.104(e)(1). USEPA added USEPA Method 23 to that rule.

The Board must revise corresponding 35 Ill. Adm. Code 726.204(e)(1) to include USEPA Method 23 and incorporate USEPA Method 23 by reference in 35 Ill. Adm. Code 720.111.

The Board believes two USEPA amendments to 40 C.F.R. § 266.104(e)(1) are errors. The Board omits those amendments. Both are described in Table 1 of the IIS-RA(P) added to the docket for R21-6.

### **Requests for Comments on Incorporating USEPA Method 23 into the Illinois Rules**

The Board requests comments on the proposed amendments incorporating revised USEPA Method 23 into the Illinois RCRA Subtitle C rules. The Board does not intend to limit comment but specifically requests that interested persons address the following:

1. Does adding a reference to USEPA Method 23 in 35 Ill. Adm. Code 726.204(e)(1) and incorporating that method by reference in 35 Ill. Adm. Code 720.111 completely incorporate USEPA's action into Illinois' RCRA Subtitle C rules?
2. Are the two USEPA revisions omitted by the Board errors in USEPA's amendments?

### **Board-Initiated Revisions**

The Board can include limited corrections or revisions that the Board finds are necessary. 415 ILCS 5/7.2(b) (2018). Most derive from Board review of background text when initiating action on USEPA amendments. Often, these corrections and revisions derive from statutory changes or suggestions from JCAR, the Agency, USEPA or some other entity outside the Board.

The Board calls these all "Board-initiated revisions," no matter their source, because they are made at the discretion of the Board and are not the direct result of USEPA rulemaking.

The Board corrected segments of rules in 35 Ill. Adm. Code 720 and 726. These Parts are open to accommodate USEPA amendments. Reviewing the text, the Board found necessary corrections.

These corrections include (1) revising language to clarify; (2) updating IBRs to *Code of Federal Regulations* provisions to the latest versions available; and (3) and any needed corrections in grammar, usage, punctuation, and spelling.

### **General Stylistic Revisions**

The Board includes several revisions to background text of 35 Ill. Adm. Code 720 and 726. This is a process that began in RCRA Subtitle C Update, USEPA Amendments (January 1, 2018 through June 30, 2018), R19-3 (Nov. 1, 2018) to conform the rules to JCAR's stylistic

preferences while retaining Board preferences like using serial commas and “must” instead of “shall.”

The Board will continue making these revisions in other Parts of the RCRA Subtitle C (and closely associated UIC) rules until they are complete in all of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, and 739.

### **Updating IBRs**

The Board routinely updates IBRs, which are important to many Illinois IIS rules. This ensures that Illinois rules do not lag their federal counterparts and become non-IIS rules.

**IBRs to Code of Federal Regulations and United States Code.** USEPA does not designate a version of federal rules cited in its rules. When any federal agency updates a rule referenced in a USEPA rule, that update automatically applies within the USEPA rule.

Thus, USEPA actions within an IIS mandate will only rarely require the Board to update its IBRs. The Board must use a specific version or edition date for an IBR, and the IBR must expressly exclude any later amendments or editions. 1 ILCS 100/5-75(a) (2018). Revising federal rules cited by USEPA will not affect corresponding Illinois rules unless the Board updates its IBRs. This is true whether the substantive effect is significant or minimal.

The same is true for changes to provisions of the *United States Code* that are cited in USEPA rules. U.S.C. revisions can also abrogate USEPA rules.

In this proposal, the Board updates the few *Code of Federal Regulations* IBRs that are available in the 2020 version. The incorporated regulations are those included in annual editions updated April 1, 2020 and released by the Government Printing Office (GPO).<sup>1</sup> The GPO will likely release the remaining April 1, 2020 annual edition<sup>2</sup> and those updated July 1, 2020<sup>3</sup> before the Board adopts final amendments in this rulemaking. The Board will update those IBRs if this occurs.

**USEPA RCRA Hazardous Waste Delisting Guidance.** USEPA’s rules rely on documents other than the *Code of Federal Regulations* and *United States Code*. USEPA also relies on guidance documents and international standards, none of which USEPA needs to update before their revision has substantive effect in implementing USEPA’s rules.

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<sup>1</sup> Including Census Bureau; Drug Enforcement Administration, Food and Drug Administration; and Nuclear Regulatory Commission rules, whose rules are the subject of IBRs.

<sup>2</sup> Including 21 C.F.R. § 203.3(y), incorporated by reference in 35 Ill. Adm. Code 720.111.

<sup>3</sup> Including Occupational Safety and Health Administration and USEPA rules incorporated by reference in 35 Ill. Adm. Code 720.111.

The Board has routinely sought updates to many of these documents and updated IBRs if an update is available. *E.g.*, RCRA Subtitle C Update, USEPA Amendments (January 1, 2019 through June 30, 2019), R20-8, RCRA Subtitle C Update, USEPA Amendments (July 1, 2019 through December 31, 2019), R20-16 (Aug. 27, 2020) (consol.), slip op. at 40.

The Board checked for any update to the USEPA Region 6 document, *EPA RCRA Delisting Program—Guidance Manual for the Petitioner* (March 23, 2000), incorporated by reference for Section 720.122 and hazardous waste delistings. The Board found that USEPA encourages use of its Delisting Risk Assessment Software (DRAS) and accompanying *RCRA Technical Support Document*<sup>4</sup> for evaluating hazardous waste delistings.<sup>5</sup> USEPA developed DRAS based on the 2000 *Guidance Manual for the Petitioner. RCRA Technical Support Document*, USEPA Office of Solid Waste (January 10, 2002, as updated October 31, 2008), at ¶ 1.3.1 (pp. 1-9 and 1-10).

The Board is evaluating possible future action relating to the IBR to the 2000 *Guidance Manual for the Petitioner* and whether to reference the 2002 *RCRA Technical Support Document* in the Illinois rules. For this purpose, the Board requests public comments

### **Requests for Comments on the Role of USEPA’s Guidance for Hazardous Waste Delisting**

The Board requests comments on the role of USEPA’s guidance documents, *EPA RCRA Delisting Program—Guidance Manual for the Petitioner* and *RCRA Technical Support Document* and the Delisting Risk Assessment Software (DRAS) in the Illinois hazardous waste delisting rules. The Board does not intend to limit comment but specifically requests that interested persons address the following:

1. Must an exercise of Board discretion in granting a hazardous waste delisting be consistent with USEPA’s 2000 version of *EPA RCRA Delisting Program—Guidance Manual for the Petitioner*?
2. Is it preferable to state that an exercise of Board discretion in granting a hazardous waste delisting will be consistent with USEPA’s 2000 version of *EPA RCRA Delisting Program—Guidance Manual for the Petitioner*?
3. Would simple reference to *EPA RCRA Delisting Program—Guidance Manual for the Petitioner* without IBR be possible if the only entity constrained is the Board (as in query 1 above) or the rule states Board intent (as in query 2)?

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<sup>4</sup> From the USEPA, Office of Solid Waste. prepared by USEPA Region 6, Multimedia Planning and Permitting Division (January 10, 2002) and updated by USEPA Region 5, Land and Chemicals Division (October 31, 2008).

<sup>5</sup> The DRAS 3.0 (updated September 2010) is available from USEPA for free download together with the guidance document for its use. <https://www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras> (Accessed September 22, 2020.)

4. How does USEPA's DRAS affect the delisting process?
5. Should the Board rule require a petitioner seeking a hazardous waste delisting to submit a DRAS analysis of its waste and circumstances with the petition?
6. Should the Board require use of the latest version of DRAS?
7. Is it possible to avoid incorporating the DRAS system by reference if requiring a petitioner to submit the results of DRAS analysis with its petition for delisting?
8. How does USEPA's 2008 *RCRA Technical Support Document* affect the delisting process?
9. Does USEPA's *RCRA Technical Support Document* affect use of *EPA RCRA Delisting Program—Guidance Manual for the Petitioner*?
10. Should the Board apply *RCRA Technical Support Document* in lieu of *EPA RCRA Delisting Program—Guidance Manual for the Petitioner*?
11. Should the Board's rule cite to *RCRA Technical Support Document* in addition to or in lieu of *EPA RCRA Delisting Program—Guidance Manual for the Petitioner*?
12. Should the Board's rules incorporate *RCRA Technical Support Document* by reference in addition to or in lieu of incorporating *EPA RCRA Delisting Program—Guidance Manual for the Petitioner* by reference?

Although the Board does not intend to address these matters in the present rulemaking, the Board may include consideration of these issues in the next update, RCRA Subtitle C Update, USEPA Amendments (July 1, 2020 through December 31, 2020, R21-13. The Board may initiate rulemaking in docket R21-13 shortly after completing this R21-6 rulemaking.

#### **ANTICIPATED SCHEDULE FOR COMPLETING THIS RULEMAKING**

Under Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2018)), the Board must complete this rulemaking within one year after the corresponding federal action. Based on the date of the earliest USEPA action included in this rulemaking, the due date for completing the present amendments is January 14, 2021.

If the Board meets no unexpected delay, the following schedule represents the earliest adoption of the present amendments using the IIS procedure.

Board order proposing amendments:	October 1, 2020
Submission for <i>Illinois Register</i> publication:	October 6, 2020
Estimated <i>Illinois Register</i> publication date:	October 16, 2020
Estimated end of 45-day public comment period:	November 30, 2020
Board order adopting amendments:	December 17, 2020
Estimated filing and effective date:	December 27, 2020

Estimated *Illinois Register* publication date: January 8, 2021

**ORDER**

The Board directs the Clerk to provide notice in the *Illinois Register* of the appended proposed amendments to the hazardous waste rules at 35 Ill. Adm. Code 720 and 726.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 1, 2020, by a vote of 4-0.



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Don A. Brown, Clerk  
Illinois Pollution Control Board

TEXT OF THE PROPOSED AMENDMENTS  
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	Manifest Copy Submission Requirements for Certain Interstate Waste Shipments
720.105	Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments
720.109	Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section	
720.110	Definitions
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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)

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. 1542, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11286, effective August 9, 2016; amended in R17-14/R17-

15/R18-12/R18-31 at 42 Ill. Reg. 21215, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 446, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 5817, effective May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15067, effective September 3, 2020; amended in R21-6 at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

### **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 and 35 Ill. Adm. Code 130.
- b) Except as provided under subsections (c) and (d), 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 the ~~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.
- 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.
- d) **Claims of Confidentiality**
  - 1) No person may assert any claim of business confidentiality with respect to information contained in cathode ray tube export documents prepared, used, and submitted under 35 Ill. Adm. Code 721.139(a)(5) and 721.141(a), and with respect to information contained in hazardous waste export, import, and transit documents prepared, used, and submitted under 35 Ill. Adm. Code 722.182, 722.183, 722.184, 723.120, 724.112, 724.171,

725.112, 725.171, and 727.171, whether submitted electronically into USEPA's Waste Import Export Tracking System or in paper format.

- 2) USEPA will make any cathode ray tube export documents prepared, used, and submitted under 35 Ill. Adm. Code 721.139(a)(5) and 721.141(a) and any hazardous waste export, import, and transit documents prepared, used, and submitted under 35 Ill. Adm. Code 722.182, 722.183, 722.184, 723.120, 724.112, 724.171, 725.112, 725.171, and 727.171 available to the public under this Section when USEPA considers these electronic or paper documents to be final documents. USEPA considers these submitted electronic and paper documents related to hazardous waste exports, imports, and transits and cathode ray tube exports to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur.

(Source: Amended at 42 Ill. Reg. 21215, effective November 19, 2018)

#### **Section 720.104 Manifest Copy Submission Requirements for Certain Interstate Waste Shipments**

~~If~~ ~~Where~~ the state in which waste is generated or the state in which waste will be transported to a designated facility requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste must, regardless of the state in which the designated facility is located must do ~~all~~ of the following:

- a) Complete the facility portion of the applicable manifest;
- b) Sign and date the facility certification;
- c) Submit to the e-Manifest System a final copy of the manifest for data processing purposes; and
- d) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest System, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of the applicable of 40 CFR 264 or 265, each incorporated by reference in Section 720.111.

(Source: Former Section 720.104 renumbered to Section 720.109; new Section 720.104 added at 43 Ill. Reg. 446, effective December 6, 2018)

#### **Section 720.105 Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments**

- a) For purposes of this Section, "state-only regulated waste" means one of the following:

- 1) A waste that is not hazardous waste but for which a state regulatory program requires use of a manifest (USEPA Form 8700-22); or
  - 2) A hazardous waste that is federally exempt from manifest requirements but not exempt from manifest requirements under state law.
- b) In any case in which a state requires a manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving ~~the such a~~ waste shipment for management must do both of the following:
- 1) Comply with 35 Ill. Adm. Code 724.171 (Use of Manifest System) and 724.172 (Manifest Discrepancies); and
  - 2) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest System, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR 264, incorporated by reference in Section 720.111.

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

### **Section 720.109 Electronic Reporting**

- a) Scope and Applicability
- 1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:
    - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
    - B) To the Board or the Agency under any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
  - 2) Electronic document submission under this Section can occur only as follows:
    - A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic

format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or

- B) For submissions of documents to the State, submissions may occur only under the following circumstances:
  - i) To the Board, into the Clerk's Office On-Line (COOL) system at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).
  - ii) To the Agency, into any electronic document receiving system for which USEPA has granted approval under 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.
  
- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1):
  - A) Any document submitted via facsimile;
  - B) Any document submitted via magnetic or optical media, e.g., a ~~such as~~ diskette, compact disc, digital video disc, or tape; or
  - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
  
- 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B), the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000.

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) Procedures for Submission of Electronic Documents in Lieu of Paper Documents to USEPA. Except as provided in subsection (a)(3), any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and
  - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A).

BOARD NOTE: Subsection (c) is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3.

- d) Procedures for Submission of Electronic Documents in Lieu of Paper Documents to the Board or the Agency
- 1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any ~~such~~ procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].
  - 2) The Board or the Agency may accept electronic documents under this Section only as provided in subsection (a)(2)(B).

BOARD NOTE: Subsection (d) is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3.

- e) Effects of Submission of an Electronic Document in Lieu of Paper Documents
- 1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
  - 2) If a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.

- 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
- 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) is derived from 40 CFR 3.4 and 3.2000(c).

- f) **Public Document Subject to State Laws.** Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, ~~but not limited to,~~ the following:
  - 1) The Administrative Procedure Act;
  - 2) The Freedom of Information Act [5 ILCS 140];
  - 3) The State Records Act [5 ILCS 160];
  - 4) The Electronic Commerce Security Act [5 ILCS 175];
  - 5) The Environmental Protection Act;
  - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
  - 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted under subsection (d)(1) will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) is derived from 40 CFR 3.2(c).

BOARD NOTE: Derived from 40 CFR 3, 145.11(a)(33), 271.10(b), 271.11(b), and 271.12(h).

(Source: Amended at 44 Ill. Reg. 15067, effective September 3, 2020)

## 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) can 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 that is not a closed portion. (See also “closed portion”.)

“Acute hazardous waste” means hazardous waste that meets the listing criteria in 35 Ill. Adm. Code 721.111(a)(2) and therefore is either listed in 35 Ill. Adm. Code 721.131 with the assigned hazard code of (H) or is listed in 35 Ill. Adm. Code 721.133(e).

BOARD NOTE: These are USEPA hazardous waste numbers F020, F021, F022, F023, F026, and F027, and all USEPA hazardous waste numbers having the prefix “P”.

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

“Aerosol can” means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder, and fitted with a self-closing release device allowing the gas to eject the contents.

“Agency” means the Illinois Environmental Protection Agency.

“Airbag waste” means any hazardous waste airbag modules or hazardous waste airbag inflators.

“Airbag waste collection facility” means any facility that receives airbag waste from airbag handlers subject to regulation under 35 Ill. Adm. Code 721.104(j) and that accumulates the waste for more than ten days.

“Airbag waste handler” means any person, by site, that generates airbag waste that is subject to regulation under 35 Ill. Adm. Code 721.104(j).

“Ancillary equipment” means any ~~devices~~ ~~device~~, including, ~~but not limited to, such~~ devices like ~~as~~ piping, fittings, flanges, valves, and pumps, that ~~are~~ ~~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 those ~~such~~ connections (electrical and mechanical) that are 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 (like ~~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 (like ~~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.

“Central accumulation area” means any on-site area where hazardous waste is accumulating in units subject to either 35 Ill. Adm. Code 722.116 (for an SQG) or 35 Ill. Adm. Code 722.117 (for an LQG). A central accumulation area at an eligible academic entity that chooses to operate under Subpart K of 35 Ill. Adm. Code 722 is also subject to 35 Ill. Adm. Code 722.311 when accumulating unwanted material or hazardous waste.

“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”.)

“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.

“Contained” means held in a unit (including a land-based unit, as defined in this Section) that meets either of the following containment situations:

Containment situation 1 (non-hazardous waste containment):

The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent unpermitted releases of hazardous secondary materials to the environment.

“Unpermitted releases” are releases that are not covered by a permit (~~e.g., such as a~~ permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation run-off, releases to soil and groundwater, windblown dust, fugitive air emissions, and catastrophic unit failures;

The unit is properly labeled or otherwise has a system (~~like such as~~ a log) to immediately identify the hazardous secondary materials in the unit; and

The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit, is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

Containment situation 2 (hazardous waste containment):

Hazardous secondary materials in units that meet the applicable requirements of 35 Ill. Adm. Code 724 or 725 are presumptively contained.

“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 under 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. The ~~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 ~~the 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, under 35 Ill. Adm. Code 722.120, of which any of the following is true:

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

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

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

The facility is regulated under 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 726; 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 under 40 CFR 271, but that 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 the 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 dibenzodioxins 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 the 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 run-on to an associated collection system at wood preserving plants.

“Electronic import-export reporting compliance date” means the date that USEPA will announce in the Federal Register, on or after which exporters, importers, and receiving facilities will be required to submit certain export and import related documents to USEPA using USEPA’s Waste Import Export Tracking System, or its successor system.

BOARD NOTE: A compliance date in Illinois regulations is limited to a date certain on or after the Board has adopted the date by rulemaking. Adoption by

rulemaking of the electronic import-export reporting compliance date can occur only after USEPA has made its announcement in the Federal Register. Until the Board has incorporated a date certain by rulemaking, the Board intends that no “electronic import-export reporting compliance date” will apply in the context of the Illinois rules. The federal electronic import-export reporting compliance date named by USEPA, however, may apply as provided by federal law.

“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 that 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 that 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 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 under 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 that 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. ~~These~~ ~~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 implementing corrective action under 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 under 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 the ~~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 under 35 Ill. Adm. Code 724 and 725 are no longer conducted at the facility unless subject to the provisions of 35 Ill. Adm. Code 722.116.

“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.

“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 under 35 Ill. Adm. Code 721.

“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.

“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.)

“Individual generation site” means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, ~~like 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.

“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 ~~like 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 that as the Agency determines to be an industrial furnace based on 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.

“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 that 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 ten days and that 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; ~~these 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 that 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.

“Large quantity generator” or “LQG” means a generator that generates any of the following amounts of material in a calendar month:

Greater than or equal to 1,000 kg (2,200 lbs) of non-acute hazardous waste;

Greater than 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); or

Greater than 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

“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. The ~~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 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 under 35 Ill. Adm. Code 730; containment building; corrective action management unit (CAMU); unit eligible for a research, development, and demonstration permit under 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”, “new HWM 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.

“Non-acute hazardous waste” means hazardous waste that is not acute hazardous waste, as defined in this Section.

“On-ground tank” means a device meeting the definition of tank that is situated ~~so 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 under 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 that 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, under 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 under 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.

“Recognized trader” means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

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

“Remanufacturing” means processing a higher-value hazardous secondary material in order to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

“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 under 35 Ill. Adm. Code 724.201, but a remediation waste management site is subject to corrective action requirements if the site is in a facility that is subject to corrective action under 35 Ill. Adm. Code 724.201.

“Replacement unit” means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and that 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.

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

“Run-on” 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 that 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” or “SQG” means a generator that generates the following amounts of material in a calendar month:

Greater than 100 kg (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste;

Less than or equal to 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); and

Less than or equal to 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e).

“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 that 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 ~~the such a~~ 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 that 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, if 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 under 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;

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

Aerosol cans, as described in 35 Ill. Adm. Code 733.106.

“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 (except under 35 Ill. Adm. Code 733.113(e) or 733.133(e)) 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.

“USEPA hazardous waste number” or “EPA 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.

“USEPA identification number” or “USEPA ID number” is the unique alphanumeric identifier that USEPA assigns a hazardous waste generator; transporter; treatment, storage, or disposal facility; or reclamation facility upon notification in compliance with the requirements of section 3010 of RCRA (42 USC 6930).

“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 fulfills both of the following conditions:

The person or entity is required to use a manifest to comply with any federal or state requirement to track the shipment, transportation, and receipt of either of the following:

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

The person or entity elects to use either of the following:

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 ~~the~~ 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.

“Very small quantity generator” or “VSQG” means a generator that generates less than or equal to the following amounts of material in a calendar month:

100 kg (220 lbs) of nonacute hazardous waste;

1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); and

100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

“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 under 35 Ill. Adm. Code 309 or a pretreatment permit or authorization to discharge under 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 44 Ill. Reg. 15067, effective September 3, 2020)

### **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, 401 North Michigan Avenue, Suite 2000, Chicago, IL 60611, 312-755-5000, [www.acgme.org](http://www.acgme.org):

“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:  
[www.acgme.org/Portals/0/PDFs/ab\\_ACGMEglossary.pdf](http://www.acgme.org/Portals/0/PDFs/ab_ACGMEglossary.pdf).

ACI. Available from the American Concrete Institute, 38800 Country Club Dr., Farmington Hills, MI 48331-3439:

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, 1899 L Street, N.W., 11th Floor, Washington, DC 20036, 202-293-8020.  
[www.ansi.org](http://www.ansi.org):

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

API. Available from the American Petroleum Institute, 200 Massachusetts Avenue, N.W., Suite 1100, Washington, DC 20001-5571, 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 721.983 and 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 721.291, 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, Two Park Avenue, New York, NY 10016-5990, 800-843-2763,  
<https://www.asme.org>:

“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, P.O. Box C700, West Conshohocken, PA 19428-2959, 610-832-9500, [www.astm.org](http://www.astm.org):

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 721.963 and 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 721.963, 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 721.963 and 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 721.963 and 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 Publishing Office, 732 Capitol Street, N.W., Washington, DC 20401-0001, 202-512-1800, [www.gpo.gov](http://www.gpo.gov):

Standard Industrial Classification Manual (1987), 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.

ISO. Available from the International Organization for Standardization, BIBC II, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland (phone: +41 22 749 01 11; [www.iso.org/store](http://www.iso.org/store)):

International Standard ISO 3166-1:2013, “Codes for the representation of names of countries and their subdivisions—Part 1: Country code”, Third edition (2013), referenced in 35 Ill. Adm. Code 722.183 and 722.184 . Latest Board search for updated version: July 2020.

BOARD NOTE: ISO maintains a web page with a free on-line list of country codes accessible at [www.iso.org/obp/ui/#search](http://www.iso.org/obp/ui/#search).

NACE. Available from the National Association of Corrosion Engineers, 15835 Park Ten Place, Houston, TX 77084, 281-228-6200, [www.nace.org](http://www.nace.org):

“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, Quincy, MA 02169-7471, 617-770-3000 or 800-344-3555, [www.nfpa.org](http://www.nfpa.org):

“Flammable and Combustible Liquids Code”, NFPA 30 (1977), referenced in 35 Ill. Adm. Code 722.116.

“Flammable and Combustible Liquids Code”, NFPA 30 (1981), referenced in 35 Ill. Adm. Code 722.116.

“Flammable and Combustible Liquids Code”, NFPA 30 (1984), referenced in 35 Ill. Adm. Code 721.298, 724.298, 725.298, 726.211, and 727.290.

“Flammable and Combustible Liquids Code”, NFPA 30 (1987), referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, 726.211, and 727.290.

“Flammable and Combustible Liquids Code”, NFPA 30 (2003), as supplemented by TIA 03-1 (2004), and corrected by Errata 30-03-01 (2004), referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, 726.211, and 727.290.

“Standard System for the Identification of the Hazards of Materials for Emergency Response”, NFPA 704 (2012 or 2017), referenced in 35 Ill. Adm. Code 722.114 and 722.116.

NTIS. Available from the National Technical Information Service, U.S. Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312, 703-605-6000 or 800-553-6847, [www.ntis.gov](http://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”, [www.apti-learn.net](http://www.apti-learn.net).

“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 [www.epa.gov/cwa-methods](http://www.epa.gov/cwa-methods). Revision A is also from the USEPA, National Service

Center for Environmental Publications (NSCEP) website at [www.epa.gov/nscep](http://www.epa.gov/nscep) (search “821R10001”).

“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, National Service Center for Environmental Publications (NSCEP) website at [www.epa.gov/nscep](http://www.epa.gov/nscep) (search “600479020”).

“North American Industry Classification System”, July 2017, 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, and in 35 Ill. Adm. Code 721.104.

BOARD NOTE: Also available on the Internet from the Bureau of Census at [www.census.gov/eos/www/naics](http://www.census.gov/eos/www/naics).

“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 USEPA, National Service Center for Environmental Publications (NSCEP) website at [www.epa.gov/nscep](http://www.epa.gov/nscep) (search “454R92019”).

“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, 728.106,

and 728.107 (in addition to the references cited below for specific methods), [www.epa.gov/hw-sw846](http://www.epa.gov/hw-sw846):

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 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 Dibenzo-p-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/Cl<sub>2</sub> 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/Cl<sub>2</sub> 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 Tables H and U 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 Tables H and U 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 721.934, 721.963, 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.

OECD. Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F-75775 Paris Cedex 16, France ([www.oecd.org](http://www.oecd.org)), also OECD Washington Center, 1776 I Street, NW, Suite 450, Washington, DC 20006, 202-452-0050  
[www.oecd.org/washington](http://www.oecd.org/washington):

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 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”). Latest Board search for updated version: August 2020.

“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. Latest Board search for updated version: August 2020.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at [www.oecd.org/environment/waste/guidance-manual-control-transboundary-movements-recoverable-wastes.pdf](http://www.oecd.org/environment/waste/guidance-manual-control-transboundary-movements-recoverable-wastes.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), “CO<sub>2</sub> Evolution (Modified Sturm Test)”, referenced in 35 Ill. Adm. Code 724.414. Latest Board search for updated version: August 2020.

STI. Available from the Steel Tank Institute, 944 Donata Ct., Lake Zurich, IL 60047, 847-438-8265, [www.steeltank.com](http://www.steeltank.com):

“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:

“Defense Explosives Safety Regulation 6055.09, Edition 1” (DESR 6055.09), as in effect on January 13, 2019, referenced in 35 Ill. Adm. Code 726.305. Latest Board search for updated version: August 2020.

“The Motor Vehicle Inspection Report” (DD Form 626), as in effect in October 2011, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

“Requisition Tracking Form” (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

“The Signature and Tally Record” (DD Form 1907), as in effect in October 2011, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

“DOD Multimodal Dangerous Goods Declaration” (DD Form 2890), as in effect in September 2015, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

BOARD NOTE: DESR 6055.09, DD Form 626, DD Form 1348, DD Form 1907, and DD Form 2890 are available on-line for download in pdf format from [www.esd.whs.mil/DD/](http://www.esd.whs.mil/DD/).

USEPA, e-Manifest System. Available from United States Environmental Protection Agency, e-Manifest System ([www.epa.gov/e-manifest](http://www.epa.gov/e-manifest)):

“Hazardous Waste Manifest Instructions”. Instructions for revision 12-17 of USEPA Forms 8700-22 and 8700-22A, referenced in 35 Ill. Adm. Code 722.120. Available at [www.epa.gov/hwgenerators/uniform-hazardous-waste-manifest-instructions-sample-form-and-continuation-sheet](http://www.epa.gov/hwgenerators/uniform-hazardous-waste-manifest-instructions-sample-form-and-continuation-sheet). Latest Board search for updated version: August 2020.

USEPA, Office of Ground Water and Drinking Water. Available from United States Environmental Protection Agency, Office of Ground Water and Drinking Water, State Programs Division, 1200 Pennsylvania Ave., N.W. (Mail Code 4606M), Washington, DC 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 at [www3.epa.gov/scram001/guidance/guide/EPA-454R-92-019\\_OCR.pdf](http://www3.epa.gov/scram001/guidance/guide/EPA-454R-92-019_OCR.pdf).

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. Latest Board search for updated version: August 2020.

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

- b) Code of Federal Regulations. Available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20401, 202-783-3238, [www.ecfr.gov](http://www.ecfr.gov) or <https://www.govinfo.gov/app/collection/cfr>:

10 CFR 20.2006 ~~(2020)~~~~(2019)~~ (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 ~~(2020)~~~~(2019)~~ (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 ~~(2020)~~~~(2019)~~ (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 ~~(2020)~~~~(2019)~~ (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 ~~(2020)~~~~(2019)~~ (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

15 CFR 30.4(b) ~~(2020)~~~~(2019)~~ (Electronic Export Information Filing, Procedures, Deadlines, and Certification Statements), referenced in 35 Ill. Adm. Code 721.139.

15 CFR 30.6 ~~(2020)~~~~(2019)~~ (Electronic Export Information Data Elements), referenced in 35 Ill. Adm. Code 721.139.

21 CFR 203.3(y) (2019) (“Prescription Drug”), referenced in 35 Ill. Adm. Code 726.600.

21 CFR 1300 through 1317 ~~(2020)~~~~(2019)~~ (Drug Enforcement Administration, Department of Justice), referenced in 35 Ill. Adm. Code 726.604 and 726.606.

21 CFR 1300.01 ~~(2020)-(2019)~~ (Definitions Relating to Controlled Substances), referenced in 35 Ill. Adm. Code 726.604 and 726.606.

21 CFR 1300.05 ~~(2020)-(2019)~~ (Definitions Relating to the Disposal of Controlled Substances), referenced in 35 Ill. Adm. Code 726.606.

21 CFR 1308.11 through 1308.15 ~~(2020)-(2019)~~ (Schedules), referenced in 35 Ill. Adm. Code 726.606.

21 CFR 1317.90 ~~(2020)-(2019)~~ (Methods of Destruction), referenced in 35 Ill. Adm. Code 726.606.

21 CFR 1317.95 ~~(2020)-(2019)~~ (Destruction Procedures), referenced in 35 Ill. Adm. Code 726.606.

29 CFR 1910.1200 (2019) (Hazard Communication), referenced in 35 Ill. Adm. Code 722.115.

33 CFR 153.203 (2019) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.3 (2019) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 (2019) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 (2019) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) (2019) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (2019) (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 (2019) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 721.984, 721.986, 721.989, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 (2019) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 721.104, 721.950, 721.964, 721.980, 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (2019) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Appendix A to 40 CFR 60 (2019), as amended at 85 Fed. Reg. 2243 (Jan. 14, 2020) (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 721.934, 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 721.933, 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 721.933, 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 721.933, 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 721.933, 721.934, 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, 721.934, 721.935, 721.963, 721.983, 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 721.933, 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 23 (Determination of Polychlorinated Dibenzo-p-Dioxins, Polychlorinated Dibenzofurans, Polychlorinated Biphenyls, and Polycyclic Aromatic Hydrocarbons from Stationary Sources), referenced in 35 Ill. Adm. Code 726.204.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 721.934, 724.934, and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 721.983, 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 721.986, 724.986, and 725.987.

40 CFR 61 (2019) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 721.104, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 (2019) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Subpart FF of 40 CFR 61 (2019) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 (2019) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 721.293, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 (2019) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 721.984, 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 (2019) (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 (2019) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Appendix C to 40 CFR 63 (2019) (Determination of the Fraction Biodegraded ( $F_{\text{bio}}$ ) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 (2019) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

40 CFR 136.3 (Identification of Test Procedures) (2019), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 (2019) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 (2019) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 (2019) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257 (2019) (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 722.114.

40 CFR 258 (2019) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) (2019) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151 (2019) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 (2019) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

Appendix to 40 CFR 262 (2019) (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 (2019) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

40 CFR 264.1311 (2019) (Manifest Transactions Subject to Fees), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1312 (2019) (User Fee Calculation Methodology), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1313 (2019) (User Fee Revisions), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1314 (2019) (How to Make User Fee Payments), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1315 (2019) (Sanctions for Delinquent Payments), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1316 (2019) (Informal Fee Dispute Resolution), referenced in 35 Ill. Adm. Code 724.171.

Subpart FF of 40 CFR 264 (2019) (Fees for the Electronic Hazardous Waste Manifest Program), referenced in Sections 720.104 and 720.105.

Appendix I to 40 CFR 264 (2019) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 (2019) (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 (2019) (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 (2019) (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.

40 CFR 265.1311 (2019) (Manifest Transactions Subject to Fees), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1312 (2019) (User Fee Calculation Methodology), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1313 (2019) (User Fee Revisions), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1314 (2019) (How to Make User Fee Payments), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1315 (2019) (Sanctions for Delinquent Payments), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1316 (2019) (Informal Fee Dispute Resolution), referenced in 35 Ill. Adm. Code 725.171.

Subpart FF of 40 CFR 265 (2019) (Fees for the Electronic Hazardous Waste Manifest Program), referenced in Sections 720.104 and 720.105.

Appendix I to 40 CFR 265 (2019) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (2019) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 (2019) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (2019) (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 (2019) (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 (2019) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 (2019) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 302 (2019) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.293.

40 CFR 403.5 (2019) (National Pretreatment Standards: Prohibited Discharges), referenced in 35 Ill. Adm. Code 721.104 and 726.605.

40 CFR 711.15(a)(4)(i)(C) (2019) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 761 (2019) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 (2019) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 (2019) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 (2019) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 (2019) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 (2019) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 (2019) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 (2019) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 (2019) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 (2019) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 (2019) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 (2019) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.131, 722.132, 724.986, 725.987, 726.609, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

Table to 49 CFR 172.101 (2019) (Hazardous Materials Table), referenced in 35 Ill. Adm. Code 721.104, 722.183, 722.184, 724.112, and 725.112.

49 CFR 172.304 (2019) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132 and 766.608.

Subpart C of 49 CFR 172 (2019) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124 and 726.610.

Subpart D of 49 CFR 172 (2019) (Marking), referenced in 35 Ill. Adm. Code 726.608.

Subpart E of 49 CFR 172 (2019) (Labeling), referenced in 35 Ill. Adm. Code 722.114, 722.115, and 726.608.

Subpart F of 49 CFR 172 (2019) (Placarding), referenced in 35 Ill. Adm. Code 722.114, 722.115, 722.133, and 726.608.

49 CFR 173 (2019) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 726.608, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 (2019) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 (2019) (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 (2019) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 (2019) (Class 1—Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 (2019) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 (2019) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 (2019) (Class 2, Divisions 2.1, 2.2, and 2.3—Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 (2019) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 (2019) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 (2019) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 (2019) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 177.817 (2019) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

49 CFR 178 (2019) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 726.608, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 (2019) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 (2019) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 721.986, 724.986, 725.987, 726.608, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 (2019) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 (2019) (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 (2019) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 (2019) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 (2019) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 (2019) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 196 (2019) (Protection of Underground Pipelines from Excavation Activity), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 (2019) (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 (2019) (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 (2018)), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 301, 304, 307, and 402 of the Clean Water Act (33 USC 1311, 1314, 1337, and 1342 (2018)), referenced in 35 Ill. Adm. Code 721.293.

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) (2018)), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 201(ff) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(ff) (2018)), referenced in Section 726.600.

Section 102(27) of the Controlled Substances Act (21 USC 802(27) (2018) (“Ultimate User”)), referenced in 35 Ill. Adm. Code 726.606.

Section 1004 of the Resource Conservation and Recovery Act (42 USC 6903 (2018)), referenced in 35 Ill. Adm. Code 721.931, 721.951, 721.981, 724.931, 724.981, 725.931, 725.951, and 725.981.

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60141 (2018)), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1) (2018)), referenced in 35 Ill. Adm. Code 726.301.

- d) This Section incorporates no later editions or amendments.

(Source: Amended at 44 Ill. Reg. 15067, effective September 3, 2020)

#### SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

##### **Section 720.120 Rulemaking**

- a) Any person may petition the Board to adopt as State regulations rules that are identical in substance with newly-adopted federal amendments or regulations. The petition must take the form of a proposal for rulemaking ~~under pursuant to~~ 35 Ill. Adm. Code 102. The proposal must include a listing of all amendments to 40 CFR 260 through 268, 273, or 279 that have been made since the last preceding amendment or proposal to amend 35 Ill. Adm. Code 720 through 728, 733, or 739, ~~under pursuant to~~ Section 22.4(a) of the Environmental Protection Act.
- b) Any person may petition the Board to adopt amendments or additional regulations not identical in substance with federal regulations. ~~The Such~~ proposal must conform to 35 Ill. Adm. Code 102 and Section 22.4(b) or 22.4(c) and Title VII of the Environmental Protection Act.

(Source: Amended at 42 Ill. Reg. 21215, effective November 19, 2018)

##### **Section 720.121 Alternative Equivalent Testing Methods**

- a) The Agency has no authority to alter the universe of regulated wastes. Modification of testing methods that are stated in 35 Ill. Adm. Code 721 requires rulemaking ~~under pursuant to~~ Section 720.120. However, deviation from these methods is allowed under 35 Ill. Adm. Code 721, as observed, for example, in the Board Note appended to 35 Ill. Adm. Code 721.120(c).
- b) The Agency may approve alternative equivalent testing methods for a particular person's use to determine whether specified waste streams are subject to these regulations. This must be done by permit condition or letter. Any petition to the Board or request to the Agency concerning alternative equivalent testing methods must include the information required by 40 CFR 260.21(b), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) The testing methods specified in 35 Ill. Adm. Code 721 or alternative equivalent testing methods approved by the Agency need not be applied to identify or distinguish waste streams that are known, admitted, or assumed to be subject to these regulations. In this case, any method may be used, subject to the Agency's authority to approve the testing procedures used.

- d) If USEPA amends the federal regulations to allow the use of a new testing method, USEPA has stated that it will incorporate the new method by reference in 40 CFR 260.11 and add it to “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, USEPA publication number EPA-530/SW-846, incorporated by reference in Section 720.111(b).
- e) Alternative equivalent testing methods will not be approved if the result of the approval would make the Illinois RCRA Subtitle C program less than substantially equivalent to the federal.

(Source: Amended at 42 Ill. Reg. 21215, effective November 19, 2018)

### **Section 720.122 Waste Delisting**

- a) Any person seeking to exclude a waste from a particular generating facility from the lists in Subpart D of 35 Ill. Adm. Code 721 may file a petition, as specified in subsection (n). The Board will grant the petition if the following occur:
  - 1) The petitioner demonstrates that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or acute hazardous waste; and
  - 2) The Board determines that there is a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that these ~~such~~ factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, “EPA RCRA Delisting Program—Guidance Manual for the Petitioner”, incorporated by reference in Section 720.111(a). A waste that is so excluded, however, still may be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- b) **Listed Wastes and Mixtures.** A person may also petition the Board to exclude from 35 Ill. Adm. Code 721.103(a)(2)(B) or (c), a waste that is described in these Sections and is either a waste listed in Subpart D of 35 Ill. Adm. Code 721, or is derived from a waste listed in that Subpart. This exclusion may only be granted for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by subsection (a). ~~If~~ Where the waste is a mixture of a solid waste and one or more listed hazardous wastes or is derived from one or more listed hazardous wastes, the demonstration must be made with respect to the waste mixture as a whole; analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste that is so

excluded may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.

- c) Ignitable, Corrosive, Reactive and Toxicity Characteristic Wastes. If the waste is listed in codes “I”, “C”, “R”, or “E” in Subpart D of 35 Ill. Adm. Code 721, the following requirements apply:
- 1) The petitioner must demonstrate that the waste does not exhibit the relevant characteristic for which the waste was listed, as defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those Sections. The petitioner must also show that the waste does not exhibit any of the other characteristics, defined in those Sections, using any applicable methods prescribed in those Sections; and
  - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that ~~these such~~ factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, “EPA RCRA Delisting Program—Guidance Manual for the Petitioner”, incorporated by reference in Section 720.111(a). A waste that is so excluded, however, may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- d) Toxic Waste. If the waste is listed in code “T” in Subpart D of 35 Ill. Adm. Code 721, the following requirements apply:
- 1) The petitioner must demonstrate that the waste fulfills the following criteria:
    - A) It does not contain the constituent or constituents (as defined in Appendix G of 35 Ill. Adm. Code 721) that caused USEPA to list the waste; or
    - B) Although containing one or more of the hazardous constituents (as defined in Appendix G of 35 Ill. Adm. Code 721) that caused USEPA to list the waste, the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(3) when considering the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A) through (a)(3)(K) under which the waste was listed as hazardous.
  - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be

hazardous waste, that ~~these such~~-factors do not warrant retaining the waste as a hazardous waste.

- 3) The petitioner must demonstrate that the waste does not exhibit any of the characteristics, defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those Sections.
  - 4) A waste that is so excluded, however, may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- e) Acute Hazardous Waste. If the waste is listed with the code “H” in Subpart D of 35 Ill. Adm. Code 721, the following requirements apply:
- 1) The petitioner must demonstrate that the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(2); and
  - 2) Based on a complete petition, the Board will determine, if it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that ~~these such~~-factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, “EPA RCRA Delisting Program—Guidance Manual for the Petitioner”, incorporated by reference in Section 720.111(a).
  - 3) The petitioner must demonstrate that the waste does not exhibit any of the characteristics, defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those Sections.
  - 4) A waste that is so excluded, however, may still be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.
- f) This subsection (f) corresponds with 40 CFR 260.22(f), which USEPA has marked “reserved”. This statement maintains structural consistency with the federal regulations.
- g) This subsection (g) corresponds with 40 CFR 260.22(g), which USEPA has marked “reserved”. This statement maintains structural consistency with the federal regulations.
- h) Demonstration samples must consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.
- i) Each petition must include, in addition to the information required by subsection (n):

- 1) The name and address of the laboratory facility performing the sampling or tests of the waste;
- 2) The names and qualifications of the persons sampling and testing the waste;
- 3) The dates of sampling and testing;
- 4) The location of the generating facility;
- 5) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether ~~these such~~ processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;
- 6) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;
- 7) Pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, ~~if where~~ the demonstration is based on the factors in 35 Ill. Adm. Code 721.111(a)(3);
- 8) A description of the methodologies and equipment used to obtain the representative samples;
- 9) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization, and preservation of the samples;
- 10) A description of the tests performed (including results);
- 11) The names and model numbers of the instruments used in performing the tests; and
- 12) The following statement signed by the generator or the generator's authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration 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.

- j) After receiving a petition, the Board may request any additional information that the Board needs to evaluate the petition.
- k) An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste from any other facility.
- l) The Board will exclude only part of the waste for which the demonstration is submitted if the Board determines that variability of the waste justifies a partial exclusion.

BOARD NOTE: See “EPA RCRA Delisting Program—Guidance Manual for the Petitioner”, incorporated by reference in Section 720.111(a).

- m) Delisting of specific wastes from specific sources that have been adopted by USEPA may be proposed as State regulations that are identical in substance under ~~pursuant to~~ Section 720.120(a).
- n) Delistings that have not been adopted by USEPA may be proposed to the Board under ~~pursuant to~~ a petition for adjusted standard under ~~pursuant to~~ Section 28.1 of the Act and Subpart D of 35 Ill. Adm. Code 104. The justification for the adjusted standard is as specified in subsections (a) through (g), as applicable to the waste in question. The petition must be clearly labeled as a RCRA delisting adjusted standard petition.

- 1) In accordance with 35 Ill. Adm. Code 101.304, the petitioner must serve copies of the petition, and any other documents filed with the Board, on USEPA at the following addresses:

USEPA  
Office of Resource Conservation and Recovery  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

USEPA, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

- 2) The Board will mail copies of all opinions and orders to USEPA at the above addresses.
- 3) In conjunction with the normal updating of the RCRA regulations, the Board will maintain, in Appendix I of 35 Ill. Adm. Code 721, a listing of all adjusted standards granted by the Board.
- o) The Agency may determine in a permit or a letter directed to a generator that, based on 35 Ill. Adm. Code 721, a waste from a particular source is not subject to

these regulations. ~~This Agency~~ Such a finding is evidence against the Agency in any subsequent proceedings but will not be conclusive with reference to other persons or the Board.

- p) Any petition to delist directed to the Board or request for determination directed to the Agency must include a showing that the waste will be generated or managed in Illinois.
- q) The Board will not grant any petition that would render the Illinois RCRA program less stringent than if the decision were made by USEPA.
- r) Delistings apply only within Illinois. Generators must comply with 35 Ill. Adm. Code 722 for waste that is hazardous in any state to which it is to be transported.

(Source: Amended at 42 Ill. Reg. 21215, effective November 19, 2018)

### **Section 720.123 Petitions for Regulation as Universal Waste**

- a) Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of 35 Ill. Adm. Code 733 may petition for a regulatory amendment under this Section, Section 720.120, and Subpart G of 35 Ill. Adm. Code 733.
- b) Petition and Demonstration.
  - 1) To be successful, the petitioner must demonstrate each of the following:
    - A) That regulation under the universal waste regulations of 35 Ill. Adm. Code 733 is appropriate for the waste or category of waste;
    - B) That regulation under 35 Ill. Adm. Code 733 will improve management practices for the waste or category of waste; and
    - C) That regulation under 35 Ill. Adm. Code 733 will improve implementation of the hazardous waste program.
  - 2) The petition must include the information required by Section 720.120(b). The petition should also address as many of the factors listed in 35 Ill. Adm. Code 733.181 as are appropriate for the waste or category of waste addressed in the petition.
- c) The Board will grant or deny a petition using the factors listed in 35 Ill. Adm. Code 733.181. The decision will be based on the weight of evidence that shows the following with regard to regulation under 35 Ill. Adm. Code 733:
  - 1) That it is appropriate for the waste or category of waste,

- 2) That it will improve management practices for the waste or category of waste, and
- 3) That it will improve implementation of the hazardous waste program.
- d) The Board may request additional information to that set forth in 35 Ill. Adm. Code 733.181, as needed to evaluate the merits of the petition.

(Source: Amended at 27 Ill. Reg. 12713, effective July 17, 2003)

### **Section 720.131 Solid Waste Determinations**

- a) The Board will determine that those materials that are accumulated speculatively without sufficient amounts being recycled are not solid wastes if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. ~~This Board~~ ~~Such a~~ determination is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. This determination will be based on the following criteria:
  - 1) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material or contractual arrangements for recycling);
  - 2) The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
  - 3) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
  - 4) The extent to which the material is handled to minimize loss; and
  - 5) Other relevant factors.
- b) The Board will determine that those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated are not solid wastes if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:
  - 1) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

- 2) The extent to which the material is handled before reclamation to minimize loss;
  - 3) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;
  - 4) The location of the reclamation operation in relation to the production process;
  - 5) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
  - 6) Whether the person that generates the material also reclaims it; and
  - 7) Other relevant factors.
- c) The Board will determine, as provided in Section 720.133, that those hazardous secondary materials that have been partially reclaimed but must be reclaimed further before recovery is completed are not solid wastes if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the determination is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled, as specified in Section 720.143, and on whether ~~all of~~ the following decision criteria are satisfied:
- 1) Whether the degree of partial reclamation the material has undergone is substantial, as demonstrated by using a partial reclamation process other than the process that generated the hazardous secondary material;
  - 2) Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;
  - 3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials ~~that which~~ that is used in subsequent production steps;
  - 4) Whether there is a market for the partially-reclaimed material, as demonstrated by known customers who are further reclaiming the material (e.g., records of sales or contracts and evidence of subsequent use, like ~~such as~~ bills of lading); and
  - 5) Whether the partially-reclaimed material is handled to minimize loss.

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

### Section 720.133 Procedures for Determinations

The Board will use the procedures of Subpart D of 35 Ill. Adm. Code 104 for determining whether a material is a solid waste, for determining that a hazardous secondary material is managed at a verified facility, for determining whether a particular enclosed flame combustion device is a boiler, or for evaluating an application for a non-waste determination.

- a) The application must address the relevant criteria contained in Section 720.131, 720.132, or 720.134, as applicable.
- b) This subsection (b) corresponds with 40 CFR 260.33(b), which pertains to the USEPA procedure for review of petitions. This statement maintains structural consistency with USEPA rules.
- c) Changed Circumstances.
  - 1) In the event of a change in circumstances that affects how a hazardous secondary material meets the relevant criteria contained in Section 720.131, 720.132, or 720.134 upon which a solid waste, verified facility, or non-waste determination has been based, the applicant must send a description of the change in circumstances to the Board as a petition for adjusted standard that requests modification of the previously granted solid waste, boiler, or non-waste determination under which the petitioner operates or, in the alternative, a Board order that no ~~such~~ modification is necessary.
  - 2) The Board will do the following:
    - A) determine, based on the record, whether the hazardous secondary material continues to meet the relevant criteria that justify exclusion from definition as solid waste; and
    - B) issue an appropriate order granting or denying the petition.
- d) A solid waste, verified facility, boiler, or non-waste determination is effective for a fixed term not to exceed 10 years, except as provided in this subsection (d). No later than six months prior to the end of this term, facilities must re-apply for a solid waste, verified facility, boiler, or non-waste determination. If a facility owner or operator re-applies for a solid waste, verified facility, boiler, or non-waste determination no later than six months prior to expiration of a solid waste, verified facility, boiler, or non-waste determination, the facility may continue to operate under an expired solid waste, boiler, or non-waste determination until receiving a decision on the re-application from the Board.
- e) A facility that receives a solid waste, boiler, or non-waste determination must provide notification, as required by Section 720.142.

(Source: Amended at 40 Ill. Reg. 11286, effective August 9, 2016)

### **Section 720.134 Non-Waste Determinations**

- a) A person generating, managing, or reclaiming hazardous secondary material may petition the Board ~~under pursuant to~~ this Section, Section 720.133 and Section 28.2 of the Act for an adjusted standard that is a formal determination that a hazardous secondary material is not discarded and therefore is not a solid waste. The Board's adjusted standard determination will be based on the criteria contained in either subsection (b) or (c), as applicable. If the Board denies the petition, the hazardous secondary material might still be eligible for a solid waste determination or verified facility determination ~~under pursuant to~~ Section 720.131 or an exclusion. A determination made by the Board ~~under pursuant to~~ this Section becomes effective upon occurrence of the first of the following two events:
- 1) After USEPA has authorized Illinois to administer this segment of the hazardous waste regulations, the determination is effective upon issuance of the Board order that grants the non-waste determination; or
  - 2) Before USEPA has granted ~~such~~ authorization, the non-waste determination becomes effective upon fulfillment of ~~all of~~ the following conditions:
    - A) The Board has granted an adjusted standard ~~that which~~ determines that the hazardous secondary material meets the criteria in either subsection (b) or (c), as applicable;
    - B) The Agency has requested that USEPA review the Board's non-waste determination; and
    - C) USEPA has approved the Board's non-waste determination.
- b) The Board will grant a non-waste determination for hazardous secondary material that is reclaimed in a continuous industrial process if the Board determines that the applicant has demonstrated that the hazardous secondary material is a part of the production process and the material is not discarded. The determination will be based on whether the hazardous secondary material is legitimately recycled, as determined ~~under pursuant to~~ Section 720.143, and on the following criteria:
- 1) The extent to which the management of the hazardous secondary material is part of the continuous primary production process and is not waste treatment;
  - 2) Whether the capacity of the production process would use the hazardous secondary material in a reasonable time frame and ensure that the

hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);

- 3) Whether the hazardous constituents in the hazardous secondary material are reclaimed, rather than released to the air, water, or land, at significantly higher levels, from either a statistical or from a health and environmental risk perspective, than would otherwise be released by the production process; and
  - 4) Other relevant factors ~~that which~~ demonstrate that the hazardous secondary material is not discarded, including why the hazardous secondary material cannot meet, or should not have to meet, the conditions of an exclusion under 35 Ill. Adm. Code 721.102 or 721.104.
- c) The Board will grant a non-waste determination for a hazardous secondary material that is indistinguishable in all relevant aspects from a product or intermediate if the petitioner demonstrates that the hazardous secondary material is comparable to a product or intermediate and is not discarded. The Board's determination will be based on whether the hazardous secondary material is legitimately recycled, as determined ~~under pursuant to~~ Section 720.143, and on the following criteria:
- 1) Whether market participants treat the hazardous secondary material as a product or intermediate, rather than as a waste (for example, based on the current positive value of the hazardous secondary material, stability of demand, or any contractual arrangements);
  - 2) Whether the chemical and physical identity of the hazardous secondary material is comparable to commercial products or intermediates;
  - 3) Whether the capacity of the market would use the hazardous secondary material in a reasonable time frame and ensure that the hazardous secondary material will not be abandoned (for example, based on past practices, market factors, the nature of the hazardous secondary material, or any contractual arrangements);
  - 4) Whether the hazardous constituents in the hazardous secondary material are reclaimed, rather than released to the air, water, or land, at significantly higher levels, from either a statistical or from a health and environmental risk perspective, than would otherwise be released by the production process; and
  - 5) Other relevant factors ~~that which~~ demonstrate that the hazardous secondary material is not discarded, including why the hazardous secondary material

cannot meet, or should not have to meet, the conditions of an exclusion under 35 Ill. Adm. Code 721.102 or 721.104.

(Source: Amended at 42 Ill. Reg. 21215, effective November 19, 2018)

**Section 720.140 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis**

- a) The Agency may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2)(C) should be regulated ~~under pursuant to~~ 35 Ill. Adm. Code 721.106(b) and (c) rather than ~~under pursuant to~~ the provisions of Subpart F of 35 Ill. Adm. Code 726. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the Agency must consider the following factors:
- 1) The types of materials accumulated or stored and the amounts accumulated or stored;
  - 2) The method of accumulation or storage;
  - 3) The length of time the materials have been accumulated or stored before being reclaimed;
  - 4) Whether any contaminants are being released into the environment, or are likely to be so released; and
  - 5) Other relevant factors.
- b) The procedures for this decision are set forth in Section 720.141.

(Source: Amended at 32 Ill. Reg. 11726, effective July 14, 2008)

**Section 720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities**

The Agency must use the following procedures when determining whether to regulate hazardous waste recycling activities described in 35 Ill. Adm. Code 721.106(a)(2)(C) under the provisions of 35 Ill. Adm. Code 721.106(b) and (c) rather than under the provisions of Subpart F of 35 Ill. Adm. Code 726.

- a) If a generator is accumulating the waste, the Agency must issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of Subparts A, C, D and E of 35 Ill. Adm. Code

722. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving ~~such~~ a request, the Agency must hold a public hearing. The Agency must provide notice of the hearing to the public and allow public participation at the hearing. The Agency must issue a final written memorandum of decision after the hearing stating whether or not compliance with 35 Ill. Adm. Code 722 is required, and setting forth the reasons for the Agency's decision, including all findings of fact and conclusions of law. ~~The Such~~ memorandum of decision will constitute a final administrative action, and may be appealed to the Board. The decision becomes effective 35 days after service of the decision unless the Agency specifies a later date or unless an appeal has been filed with the Board. The decision may be appealed to the Board by any person who participated in the hearing. Proceedings before the Board must be in general accordance with the rules set forth in 35 Ill. Adm. Code 105.

- b) If the person is accumulating the recyclable material as a storage facility, the notice must state that the person must obtain a permit in accordance with all applicable provisions of 35 Ill. Adm. Code 702, 703, and 705. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the Agency's decision, it may do so in its permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the Agency's determination. The question of whether the Agency's decision was proper will remain open for consideration during the public comment period discussed under Subparts D and E of 35 Ill. Adm. Code 705, and in any subsequent hearing.

(Source: Amended at 32 Ill. Reg. 11726, effective July 14, 2008)

### **Section 720.142 Notification Requirement for Hazardous Secondary Materials**

- a) A facility that manages hazardous secondary materials ~~that which~~ are excluded from regulation under 35 Ill. Adm. Code 721.104(a)(23), (a)(24), or (a)(27) must send a notification to the Agency, Bureau of Land. The notification must occur prior to operating under the regulatory provision and before March 1 of every even-numbered calendar year thereafter using a copy of Notification of RCRA Subtitle C Activities (Site Identification Form) (USEPA Form 8700-12). The notification must include the following information:
- 1) The name, address, and USEPA identification number (if applicable) of the facility;
  - 2) The name and telephone number of a contact person for the facility;

- 3) The NAICS code of the facility;

BOARD NOTE: Determined using the “North American Industry Classification System”, incorporated by reference in Section 720.111.

- 4) The regulation under which the facility will manage the hazardous secondary materials;
  - 5) For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with 35 Ill. Adm. Code 721.104(a)(24) or (a)(25), whether the reclaimer or intermediate facility has financial assurance (not applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);
  - 6) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;
  - 7) A list of hazardous secondary materials that the facility will manage according to the regulation (reported as the USEPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);
  - 8) For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;
  - 9) The quantity of each hazardous secondary material to be managed annually; and
  - 10) The certification (included in USEPA Form 8700-12) signed and dated by an authorized representative of the facility.
- b) If a facility that manages hazardous secondary material has submitted a notification, but then subsequently ceases managing hazardous secondary materials in accordance with a regulation listed in subsection (a), the facility owner or operator must notify the Agency within 30 days after the cessation using a copy of USEPA Form 8700-12. For purposes of this Section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages, or reclaims hazardous secondary materials under the regulation listed in subsection (a), and the facility owner or operator does not expect to manage any amount of hazardous secondary materials for at least one year.

BOARD NOTE: USEPA Form 8700-12 is available from the Agency, Bureau of Land (217-782-6762). It is also available on-line for download in PDF file format: [www.epa.gov/hwgenerators/instructions-and-form-hazardous-waste-generators-transporters-and-treatment-storage-and](http://www.epa.gov/hwgenerators/instructions-and-form-hazardous-waste-generators-transporters-and-treatment-storage-and).

(Source: Amended at 43 Ill. Reg. 5817, May 2, 2019)

### **Section 720.143 Legitimate Recycling of Hazardous Secondary Materials**

- a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not the subject of legitimate recycling is discarded material and is a solid waste. A determination that an activity is legitimate recycling must address all the requirements of this subsection (a) and must consider the requirements of subsection (b).
  - 1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it fulfills one of the following criteria:
    - A) The material contributes valuable ingredients to a product or intermediate;
    - B) The material replaces a catalyst or carrier in the recycling process;
    - C) The material is the source of a valuable constituent recovered in the recycling process;
    - D) The material is recovered or regenerated by the recycling process;  
or
    - E) The material is used as an effective substitute for a commercial product.
  - 2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if either of the following is true:
    - A) The product or intermediate is sold to a third party; or
    - B) The product or intermediate is used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.
  - 3) The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. ~~If-Where~~ there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. ~~If-Where~~ there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the

environment and ~~that which~~ are not recovered immediately are discarded material.

- b) The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity.
- 1) The product of the recycling process fulfills ~~all of~~ the following criteria:
    - A) The product must not contain significant concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 that are not found in analogous products;
    - B) The product must not contain concentrations of hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 at levels that are significantly elevated from those found in analogous products; and
    - C) The product must not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 721) that analogous products do not exhibit.
  - 2) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this subsection (b) is not met, then this fact may indicate that the material is not legitimately recycled. However, the factor in this subsection (b) does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

(Source: Amended at 43 Ill. Reg. 446, effective December 6, 2018)

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

PART 726  
STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS  
WASTE AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT  
FACILITIES

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Section  
726.102      Electronic Reporting

SUBPART C: RECYCLABLE MATERIALS USED IN A MANNER  
CONSTITUTING DISPOSAL

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726.121      Standards Applicable to Generators and Transporters of Materials Used in a  
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Constitutes Disposal

SUBPART D: HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

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726.130      Applicability (Repealed)  
726.131      Prohibitions (Repealed)  
726.132      Standards applicable to generators of hazardous waste fuel (Repealed)  
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726.134      Standards applicable to marketers of hazardous waste fuel (Repealed)  
726.135      Standards applicable to burners of hazardous waste fuel (Repealed)  
726.136      Conditional exemption for spent materials and by-products exhibiting a  
characteristic of hazardous waste (Repealed)

SUBPART E: USED OIL BURNED FOR ENERGY RECOVERY

Section  
726.140      Applicability (Repealed)  
726.141      Prohibitions (Repealed)  
726.142      Standards applicable to generators of used oil burned for energy recovery  
(Repealed)

- 726.143 Standards applicable to marketers of used oil burned for energy recovery (Repealed)  
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SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY

- Section  
 726.170 Applicability and Requirements

SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED

- Section  
 726.180 Applicability and Requirements

SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

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 726.201 Management Prior to Burning  
 726.202 Permit Standards for Burners  
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726.445	Notification
726.450	Recordkeeping for a Transportation and Disposal Conditional Exemption
726.455	Loss of a Transportation and Disposal Conditional Exemption and Required Action
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SUBPART P: HAZARDOUS WASTE PHARMACEUTICALS

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726.TABLE A	Exempt Quantities for Small Quantity Burner Exemption

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 R85-22 at 10 Ill. Reg. 1162, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14156, effective August 12, 1986; amended in R87-26 at 12 Ill. Reg. 2900, effective January 15, 1988; amended in R89-1 at 13 Ill. Reg. 18606, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14533, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9727, effective June 17, 1991; amended in R91-13 at 16 Ill. Reg. 9858, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5865, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20904, effective November 22, 1993; amended in R94-7 at 18 Ill. Reg. 12500, effective July 29, 1994; amended in R95-4/R95-6 at 19 Ill. Reg. 10006, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11263, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 754, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 18042, effective September 28, 1998; amended in R99-15 at 23 Ill. Reg. 9482, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9853, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6667, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 4200, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12916, effective July 17, 2003; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3700, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1096, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12741, effective July 14, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 18117, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3249, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17888, effective October 24, 2013; amended in R16-7 at 40 Ill. Reg. 11955, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 23023, effective November 19, 2018; amended in R20-8/R20-16 at 44 Ill. Reg. 15427, effective September 3, 2020.

## SUBPART A: GENERAL

**Section 726.102 Electronic Reporting**

The filing of any document ~~under pursuant to~~ any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 720.104.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 271.10(b), 271.11(b), and 271.12(h) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 31 Ill. Reg. 1096, effective December 20, 2006)

SUBPART C: RECYCLABLE MATERIALS USED IN A MANNER  
CONSTITUTING DISPOSAL**Section 726.120 Applicability**

- a) The regulations of this Subpart C apply to recyclable materials that are applied to or placed on the land in either of the following ways:
  - 1) Without mixing with any other substances; or
  - 2) After mixing or combination with any other substances. These materials will be referred to throughout this Subpart C as “materials used in a manner that constitutes disposal”.
- b) A product produced for the general public’s use that is used in a manner that constitutes disposal and ~~that which~~ contains recyclable material is not presently subject to regulation under this Subpart C if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if ~~the such~~ products meet the applicable treatment standards in Subpart D of 35 Ill. Adm. Code 728 (or applicable prohibition levels in 35 Ill. Adm. Code 728.132 or 728.139, ~~if where~~ no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that it contains, and the recycler complies with 35 Ill. Adm. Code 728.107(b)(6).
- c) Anti-skid and deicing uses of slags that are generated from high temperature metals recovery (HTMR) processing of hazardous wastes K061, K062, and F006 in a manner constituting disposal are not covered by the exemption in subsection (b), and ~~these such~~ uses of these materials remain subject to regulation.
- d) Fertilizers that contain recyclable materials are not subject to regulation provided that the following conditions are fulfilled:
  - 1) They are zinc fertilizers excluded from the definition of solid waste according to 35 Ill. Adm. Code 721.104(a)(21); or

- 2) They meet the applicable treatment standards in Subpart D of 35 Ill. Adm. Code 728 for each hazardous waste that they contain.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

**Section 726.122 Standards Applicable to Storers, Who Are Not the Ultimate Users, of Materials that Are To Be Used in a manner that Constitutes Disposal**

An owner or operator of a facility that stores a recyclable material that is to be used in a manner that constitutes disposal, but ~~that which~~ is not the ultimate user of the material, is regulated under all applicable provisions of Subparts A through L of 35 Ill. Adm. Code 724, 725; and 727 and 35 Ill. Adm. Code 702, 703, and 705; and the notification requirement under section 3010 of the Resource Conservation and Recovery Act.

(Source: Amended at 35 Ill. Reg. 18117, effective October 14, 2011)

**SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED**

**Section 726.180 Applicability and Requirements**

- a) Extent of Exemption for Spent Lead-Acid Batteries from Hazardous Waste Management Requirements. If an owner or operator generates, collects, transports, stores, or regenerates lead-acid batteries for reclamation purposes, the owner or operator may be exempt from certain hazardous waste management requirements. Subsections (a)(1) through (a)(5) indicate which requirements apply to the owner or operator. Alternatively, the owner or operator may choose to manage its spent lead-acid batteries under the “Universal Waste” rule in 35 Ill. Adm. Code 733.
  - 1) If the spent lead-acid batteries will be reclaimed through regeneration (~~e.g., such as~~ by electrolyte replacement), the owner or operator is exempt from the requirements of 35 Ill. Adm. Code 702, 703, 722 through 726 (except for 35 Ill. Adm. Code 722.111), and 728 and the notification requirements of section 3010 of RCRA (42 USC 6930), but the owner or operator is subject to the requirements of 35 Ill. Adm. Code 721 and 722.111.
  - 2) If the spent lead-acid batteries will be reclaimed other than through regeneration, and the owner or operator generates, collects, or transports the batteries, the owner or operator is exempt from the requirements of 35 Ill. Adm. Code 702, 703, and 722 through 726 (except for 35 Ill. Adm. Code 722.111), and the notification requirements of section 3010 of RCRA (42 USC 6930), but the owner or operator is subject to the requirements of 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.

- 3) If the spent lead-acid batteries will be reclaimed other than through regeneration, and the owner or operator stores the batteries, but the owner or operator is not the reclaimer, the owner or operator is exempt from the requirements of 35 Ill. Adm. Code 702, 703, and 722 through 726 (except for 35 Ill. Adm. Code 722.111), and the notification requirements of section 3010 of RCRA (42 USC 6930), but the owner or operator is subject to the requirements of 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.
- 4) If the spent lead-acid batteries will be reclaimed other than through regeneration, and the owner or operator stores the batteries before the owner or operator reclaims them, the owner or operator must comply with the requirements of Section 726.180(b) and other requirements described in that subsection, and the owner or operator is subject to the requirements of 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.
- 5) If the spent lead-acid batteries will be reclaimed other than through regeneration, and the owner or operator does not store the batteries before the owner or operator reclaims them, the owner or operator is exempt from the requirements of 35 Ill. Adm. Code 702, 703, and 722 through 726 (except for 35 Ill. Adm. Code 722.111), and the notification requirements of section 3010 of RCRA (42 USC 6930), and the owner or operator is subject to the requirements of 35 Ill. Adm. Code 721 and 722.111 and applicable provisions of 35 Ill. Adm. Code 728.
- 6) If the spent lead-acid batteries will be reclaimed through regeneration or any other means, and the batteries are exported for reclamation in a foreign country, the owner or operator is exempt from 35 Ill. Adm. Code 702, 703, 722 (except for 35 Ill. Adm. Code 722.111, 722.112 and Subpart H of 35 Ill. Adm. Code 722), 723 through 726, and 728, and the notification requirements at section 3010 of RCRA (42 USC 6930). The owner or operator is subject to the requirements of 35 Ill. Adm. Code 721, 722.111, and 722.112 and Subpart H of 35 Ill. Adm. Code 722.
- 7) If the spent lead-acid batteries will be reclaimed through regeneration or any other means, the person that transports the batteries in the United States to export them for reclamation in a foreign country (the transporter) is exempt from 35 Ill. Adm. Code 702, 703, 723 through 726, and 728, and the notification requirements at section 3010 of RCRA (42 USC 6930). The transporter must comply with the applicable requirements in Subpart H of 35 Ill. Adm. Code 722.
- 8) If the spent lead-acid batteries will be reclaimed other than through regeneration, and the person that imports the batteries from a foreign

country and stores them but is not the reclaimer, the person is exempt from 35 Ill. Adm. Code 722 (except for 35 Ill. Adm. Code 722.111 and 722.112 and Subpart H of 35 Ill. Adm. Code 722), 702, 703, 723, 724, 725, and 726, and the notification requirements at section 3010 of RCRA (42 USC 6930). The person is subject to 35 Ill. Adm. Code 721, 722.111, 722.112, Subpart H of 35 Ill. Adm. Code 722, and applicable provisions of 35 Ill. Adm. Code 728.

- 9) If the spent lead-acid batteries will be reclaimed other than through regeneration, and the person that imports the batteries from a foreign country and stores them before reclaiming them, the person must comply with 35 Ill. Adm. Code 726.180(b) and as appropriate other regulatory provisions described in 35 Ill. Adm. Code 726.180(b). The person is subject to 35 Ill. Adm. Code 721, 722.111, 722.112, Subpart H of 35 Ill. Adm. Code 722, and applicable provisions of 35 Ill. Adm. Code 728.
- 10) If the spent lead-acid batteries will be reclaimed other than through regeneration, and the person that imports the batteries from a foreign country does not store them before reclaiming them, the person is exempt from 35 Ill. Adm. Code 702, 703, 722 (except for 35 Ill. Adm. Code 722.111 and 722.112 and Subpart H of 35 Ill. Adm. Code 722), 723, 724, 725, and 726 and the notification requirements at section 3010 of RCRA (42 USC 6930). The person is subject to 35 Ill. Adm. Code 721, 722.111, 722.112, Subpart H of 35 Ill. Adm. Code 722, and applicable provisions of 35 Ill. Adm. Code 728.

b) Exemption for Spent Lead-Acid Batteries Stored before Reclamation Other Than Through Regeneration. The requirements of this subsection (b) apply to an owner or operator that stores spent lead-acid batteries before it reclaims them, if the owner or operator does not reclaim them through regeneration. The requirements are slightly different depending on the owner's or operator's RCRA permit status.

- 1) For an interim status facility, the owner or operator must comply with the following requirements:
  - A) The notification requirements under Section 3010 of RCRA (42 USC 6930);
  - B) All applicable provisions in Subpart A of 35 Ill. Adm. Code 725;
  - C) All applicable provisions in Subpart B of 35 Ill. Adm. Code 725, except 35 Ill. Adm. Code 725.113 (waste analysis);
  - D) All applicable provisions in Subparts C and D of 35 Ill. Adm. Code 725;

- E) All applicable provisions in Subpart E of 35 Ill. Adm. Code 725, except 35 Ill. Adm. Code 725.171 and 725.172 (dealing with the use of the manifest and manifest discrepancies);
  - F) All applicable provisions in Subparts F through L of 35 Ill. Adm. Code 725;
  - G) All applicable provisions in 35 Ill. Adm. Code 702 and 703; and
  - H) All applicable provisions in 35 Ill. Adm. Code 727.
- 2) For a permitted facility, the following requirements:
- A) The notification requirements under section 3010 of RCRA (42 USC 6930);
  - B) All applicable provisions in Subpart A of 35 Ill. Adm. Code 724;
  - C) All applicable provisions in Subpart B of 35 Ill. Adm. Code 724, except 35 Ill. Adm. Code 724.113 (waste analysis);
  - D) All applicable provisions in Subparts C and D of 35 Ill. Adm. Code 724;
  - E) All applicable provisions in Subpart E of 35 Ill. Adm. Code 724, except 35 Ill. Adm. Code 724.171 or 724.172 (dealing with the use of the manifest and manifest discrepancies);
  - F) All applicable provisions in Subparts F through L of 35 Ill. Adm. Code 724;
  - G) All applicable provisions in 35 Ill. Adm. Code 702 and 703; and
  - H) All applicable provisions in 35 Ill. Adm. Code 727.

(Source: Amended at 44 Ill. Reg. 15427, effective September 3, 2020)

#### SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

##### **Section 726.200 Applicability**

- a) The regulations of this Subpart H apply to hazardous waste burned or processed in a boiler or industrial furnace (BIF) (as defined in 35 Ill. Adm. Code 720.110) irrespective of the purpose of burning or processing, except as provided by subsections (b), (c), (d), (g), and (h). In this Subpart H, the term “burn” means burning for energy recovery or destruction or processing for materials recovery or as

an ingredient. The emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 apply to facilities operating under interim status or under a RCRA permit, as specified in Sections 726.202 and 726.203.

- b) Integration of the MACT Standards
- 1) Except as provided by subsections (b)(2), (b)(3), and (b)(4), the standards of this Part do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of federal subpart EEE of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), incorporated by reference in 35 Ill. Adm. Code 720.111(b), by conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance, ~~under pursuant to~~ 40 CFR 63.1207(j) (What are the performance testing requirements?) and 63.1210(d) (What are the notification requirements?), documenting compliance with the requirements of federal subpart EEE of 40 CFR 63. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this Part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.
  - 2) The following standards continue to apply:
    - A) If an owner or operator elects to comply with 35 Ill. Adm. Code 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, Section 726.202(e)(1), requiring operations in accordance with the operating requirements specified in the permit at all times that hazardous waste is in the unit, and Section 726.202(e)(2)(C), requiring compliance with the emission standards and operating requirements, during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;
    - B) The closure requirements of Sections 726.202(e)(11) and 726.203(l);
    - C) The standards for direct transfer of Section 726.211;
    - D) The standards for regulation of residues of Section 726.212; and

- E) The applicable requirements of Subparts A through H, BB, and CC of 35 Ill. Adm. Code 724 and 725.
- 3) The owner or operator of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as 40 CFR 63), that has not elected to comply with the emission standards of 40 CFR 63.1216, 63.1217, and 63.1218, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63), for particulate matter, semivolatile and low volatile metals, and total chlorine, also remains subject to the following requirements of this Part:
    - A) Section 726.205 (Standards to Control PM);
    - B) Section 726.206 (Standards to Control Metals Emissions); and
    - C) Section 726.207 (Standards to Control HCl and Chlorine Gas Emissions).
  - 4) The particulate matter standard of Section 726.205 remains in effect for a boiler that elects to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1217(e), each incorporated by reference in 35 Ill. Adm. Code 720.111(b) (as subpart EEE of 40 CFR 63).

BOARD NOTE: Sections 9.1 and 39.5 of the Environmental Protection Act make the federal MACT standards directly applicable to entities in Illinois and authorize the Agency to issue permits based on the federal standards. In adopting this subsection (b), USEPA stated as follows (at 64 Fed Reg. 52828, 52975 (November 30, 1999)):

Under [the approach adopted by USEPA as a] final rule, MACT air emissions and related operating requirements are to be included in title V permits; RCRA permits will continue to be required for all other aspects of the combustion unit and the facility that are governed by RCRA (e.g., corrective action, general facility standards, other combustor-specific concerns such as materials handling, risk-based emissions limits and operating requirements, as appropriate, and other hazardous waste management units).

- c) The following hazardous wastes and facilities are not subject to regulation under ~~pursuant to~~ this Subpart H:
  - 1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721. This ~~Such~~ used oil is subject to regulation under ~~pursuant to~~ 35 Ill. Adm. Code 739, rather than this Subpart H;

- 2) Gas recovered from hazardous or solid waste landfills, when ~~this such~~ gas is burned for energy recovery;
  - 3) Hazardous wastes that are exempt from regulation ~~under pursuant to~~ 35 Ill. Adm. Code 721.104 and 721.106(a)(3)(C) and (a)(3)(D) and hazardous wastes that are subject to the special requirements for VSQGs ~~under pursuant to~~ 35 Ill. Adm. Code 722.114; and
  - 4) Coke ovens, if the only hazardous waste burned is USEPA hazardous waste no. K087 decanter tank tar sludge from coking operations.
- d) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices, ~~like such as~~ cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste) that process hazardous waste solely for metal recovery are conditionally exempt from regulation ~~under pursuant to~~ this Subpart H, except for Sections 726.201 and 726.212.
- 1) To be exempt from Sections 726.202 through 726.211, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements, except that an owner or operator of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dust emitted by steel manufacturing must comply with the requirements of subsection (d)(3), and an owner or operator of a lead recovery furnace that is subject to regulation under the Secondary Lead Smelting NESHAP of federal subpart X of 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelting) must comply with the requirements of subsection (h):
    - A) Provide a one-time written notice to the Agency indicating the following:
      - i) The owner or operator claims exemption ~~under pursuant to~~ this subsection (d);
      - ii) The hazardous waste is burned solely for metal recovery consistent with the provisions of subsection (d)(2);
      - iii) The hazardous waste contains recoverable levels of metals; and
      - iv) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this subsection (d);

- B) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this subsection (d) by using appropriate methods; and
  - C) Maintain at the facility for at least three years records to document compliance with the provisions of this subsection (d), including limits on levels of toxic organic constituents and Btu value of the waste and levels of recoverable metals in the hazardous waste compared to normal non-hazardous waste feedstocks.
- 2) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:
- A) The hazardous waste has a total concentration of organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 exceeding 500 ppm by weight, as fired, and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited, and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C); or
  - B) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and is so considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the records required by subsection (d)(1)(C).
- 3) To be exempt from Sections 726.202 through 726.211, an owner or operator of a lead, nickel-chromium, or mercury recovery furnace, except for an owner or operator of a lead recovery furnace that is subject to regulation under pursuant to the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the Agency identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under pursuant to this subsection (d)(3) or subsection (d)(1). The owner or operator must comply with the requirements of subsection (d)(1) for those wastes claimed to be exempt under pursuant to that subsection and must comply with the following requirements for those wastes claimed to be exempt under pursuant to this subsection (d)(3):

- A) The hazardous wastes listed in Appendices K, L, and M and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of subsection (d)(1), provided the following are true:
- i) A waste listed in Appendix K must contain recoverable levels of lead, a waste listed in Appendix L must contain recoverable levels of nickel or chromium, a waste listed in Appendix M must contain recoverable levels of mercury and contain less than 500 ppm of Appendix H to 35 Ill. Adm. Code 721 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;
  - ii) The waste does not exhibit the toxicity characteristic of 35 Ill. Adm. Code 721.124 for an organic constituent;
  - iii) The waste is not a hazardous waste listed in Subpart D of 35 Ill. Adm. Code 721 because it is listed for an organic constituent, as identified in Appendix G of 35 Ill. Adm. Code 721; and
  - iv) The owner or operator certifies in the one-time notice that hazardous waste is burned ~~under~~ pursuant to the provisions of subsection (d)(3) and that sampling and analysis will be conducted or other information will be obtained as necessary to ensure continued compliance with these requirements. Sampling and analysis must be conducted according to subsection (d)(1)(B), and records to document compliance with subsection (d)(3) must be kept for at least three years.
- B) The Agency may decide, on a case-by-case basis, that the toxic organic constituents in a material listed in Appendix K, Appendix L, or Appendix M that contains a total concentration of more than 500 ppm toxic organic compounds listed in Appendix H of 35 Ill. Adm. Code 721 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this Subpart H. Under these circumstances, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this Subpart H when burning that material. In making the hazard determination, the Agency must consider the following factors:
- i) The concentration and toxicity of organic constituents in the material;

- ii) The level of destruction of toxic organic constituents provided by the furnace; and
  - iii) Whether the acceptable ambient levels established in Appendix D or E will be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.
- e) The standards for direct transfer operations ~~under pursuant to~~ Section 726.211 apply only to facilities subject to the permit standards of Section 726.202 or the interim status standards of Section 726.203.
- f) The management standards for residues ~~under pursuant to~~ Section 726.212 apply to any BIF burning hazardous waste.
- g) Owners and operators of smelting, melting, and refining furnaces (including pyrometallurgical devices ~~like such as~~ cupolas, sintering machines, roasters, and foundry furnaces) that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these metals are conditionally exempt from regulation ~~under pursuant to~~ this Subpart H, except for Section 726.212. To be exempt from Sections 726.202 through 726.211, an owner or operator must do the following:
  - 1) Provide a one-time written notice to the Agency indicating the following:
    - A) The owner or operator claims exemption ~~under pursuant to~~ this Section,
    - B) The hazardous waste is burned for legitimate recovery of precious metal, and
    - C) The owner or operator will comply with the sampling and analysis and recordkeeping requirements of this Section;
  - 2) Sample and analyze the hazardous waste, as necessary, to document that the waste is burned for recovery of economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and
  - 3) Maintain, at the facility for at least three years, records to document that all hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.

h) An owner or operator of a lead recovery furnace that processes hazardous waste for recovery of lead and ~~that which~~ is subject to regulation ~~under pursuant to~~ the Secondary Lead Smelting NESHAP of subpart X of 40 CFR 63, is conditionally exempt from regulation ~~under pursuant to~~ this Subpart H, except for Section 726.201. To become exempt, an owner or operator must provide a one-time notice to the Agency identifying each hazardous waste burned and specifying that the owner or operator claims an exemption ~~under pursuant to~~ this subsection (h). The notice also must state that the waste burned has a total concentration of non-metal compounds listed in Appendix H of 35 Ill. Adm. Code 721 of less than 500 ppm by weight, as fired and as provided in subsection (d)(2)(A), or is listed in Appendix K.

i) Abbreviations and Definitions. The following definitions and abbreviations are used in this Subpart H:

“APCS” means air pollution control system.

“BIF” means boiler or industrial furnace.

“Carcinogenic metals” means arsenic, beryllium, cadmium, and chromium.

“CO” means carbon monoxide.

“Continuous monitor” is a monitor that continuously samples the regulated parameter without interruption, that evaluates the detector response at least once each 15 seconds, and that computes and records the average value at least every 60 seconds.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(1)(i) and (e)(6)(ii)(B)(1).

“DRE” means destruction or removal efficiency.

“cu m” or “m<sup>3</sup>” means cubic meters.

“E” means “ten to the power”. For example, “XE-Y” means “X times ten to the -Y power”.

“Feed rates” are measured as specified in Section 726.202(e)(6).

“Good engineering practice stack height” is as defined by federal 40 CFR 51.100(ii) (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

“HC” means hydrocarbon.

“HCl” means hydrogen chloride gas.

“Hourly rolling average” means the arithmetic mean of the 60 most recent one-minute average values recorded by the continuous monitoring system.  
BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(i)(B)(I)(ii).

“K” means Kelvin.

“kVA” means kilovolt amperes.

“MEI” means maximum exposed individual.

“MEI location” means the point with the maximum annual average off-site (unless on-site is required) ground level concentration.

“Noncarcinogenic metals” means antimony, barium, lead, mercury, thallium, and silver.

“One hour block average” means the arithmetic mean of the one minute averages recorded during the 60-minute period beginning at one minute after the beginning of the preceding clock hour.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(2).

“PIC” means product of incomplete combustion.

“PM” means particulate matter.

“POHC” means principal organic hazardous constituent.

“ppmv” means parts per million by volume.

“QA/QC” means quality assurance and quality control.

“Rolling average for the selected averaging period” means the arithmetic mean of one hour block averages for the averaging period.

BOARD NOTE: Derived from 40 CFR 266.100(e)(6)(ii)(B)(2).

“RAC” means reference air concentration, the acceptable ambient level for the noncarcinogenic metals for purposes of this Subpart. RACs are specified in Appendix D.

“RSD” means risk-specific dose, the acceptable ambient level for the carcinogenic metals for purposes of this Subpart. RSDs are specified in Appendix E.

“SSU” means “Saybolt Seconds Universal,” a unit of viscosity measured by ASTM D 88-87 (Standard Test Method for Saybolt Viscosity) or D 2161-87 (Standard Practice for Conversion of Kinematic Viscosity to

Saybolt Universal or to Saybolt Furol Viscosity), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

“TCLP test” means Method 1311 (Toxicity Characteristic Leaching Procedure) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a), as used for the purposes of 35 Ill. Adm. Code 721.124.

“TESH” means terrain-adjusted effective stack height (in meters).

“Tier I”. See Section 726.206(b).

“Tier II”. See Section 726.206(c).

“Tier III”. See Section 726.206(d).

“Toxicity equivalence” is estimated, ~~under pursuant to~~ Section 726.204(e), using section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (see Appendix I).

“µg” means microgram.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

## **Section 726.202 Permit Standards for Burners**

- a) Applicability
  - 1) General. An owner or operator of a BIF that burns hazardous waste and that does not operate under interim status must comply with the requirements of this Section and 35 Ill. Adm. Code 703.208 and 703.232, unless exempt under the small quantity burner exemption of Section 726.208.
  - 2) Applicability of 35 Ill. Adm. Code 724 Standards. An owner or operator of a BIF that burns hazardous waste is subject to the following provisions of 35 Ill. Adm. Code 724, except as provided otherwise by this Subpart H:
    - A) In Subpart A (General), 35 Ill. Adm. Code 724.104;
    - B) In Subpart B (General facility standards), 35 Ill. Adm. Code 724.111 through 724.118;

- C) In Subpart C (Preparedness and prevention), 35 Ill. Adm. Code 724.131 through 724.137;
  - D) In Subpart D (Contingency plan and emergency procedures), 35 Ill. Adm. Code 724.151 through 724.156;
  - E) In Subpart E (Manifest system, recordkeeping and reporting), the applicable provisions of 35 Ill. Adm. Code 724.171 through 724.177;
  - F) In Subpart F (Releases from Solid Waste Management Units), 35 Ill. Adm. Code 724.190 and 724.201;
  - G) In Subpart G (Closure and post-closure), 35 Ill. Adm. Code 724.211 through 724.215;
  - H) In Subpart H (Financial requirements), 35 Ill. Adm. Code 724.241, 724.242, 724.243, and 724.247 through 724.251, except that the State of Illinois and the federal government are exempt from the requirements of Subpart H of 35 Ill. Adm. Code 724; and
  - I) Subpart BB (Air emission standards for equipment leaks), except 35 Ill. Adm. Code 724.950(a).
- b) Hazardous Waste Analysis
- 1) The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix H of 35 Ill. Adm. Code 721 that is reasonably expected to be in the waste. The ~~Such~~ constituents must be identified and quantified if present, at levels detectable by using appropriate analytical methods. The constituents listed in Appendix H of 35 Ill. Adm. Code 721 that are excluded from this analysis must be identified and the basis for their exclusion explained. This analysis must provide all information required by this Subpart H and 35 Ill. Adm. Code 703.208 and 703.232 and must enable the Agency to prescribe ~~such~~ permit conditions that ~~as~~ are necessary to adequately protect human health and the environment. The ~~Such~~ analysis must be included as a portion of the Part B permit application, or, for facilities operating under the interim status standards of this Subpart H, as a portion of the trial burn plan that may be submitted before the Part B application under provisions of 35 Ill. Adm. Code 703.232(g), as well as any other analysis required by the Agency. The owner or operator of a BIF not operating under the interim status standards must provide the information required by 35 Ill. Adm. Code 703.208 and 703.232 in the Part B application to the greatest extent possible.
  - 2) Throughout normal operation, the owner or operator must conduct sampling and analysis as necessary to ensure that the hazardous waste, other fuels, and

industrial furnace feedstocks fired into the BIF are within the physical and chemical composition limits specified in the permit.

- c) Emissions Standards. An owner or operator must comply with emissions standards provided by Sections 726.204 through 726.207.
- d) Permits
  - 1) The owner or operator must burn only hazardous wastes specified in the facility permit and only under the operating conditions specified under subsection (e), except in approved trial burns under the conditions specified in 35 Ill. Adm. Code 703.232.
  - 2) Hazardous wastes not specified in the permit must not be burned until operating conditions have been specified under a new permit or permit modification, as applicable. Operating requirements for new wastes must be based on either trial burn results or alternative data included with Part B of a permit application under 35 Ill. Adm. Code 703.208.
  - 3) BIFs operating under the interim status standards of Section 726.203 are permitted under procedures provided by 35 Ill. Adm. Code 703.232(g).
  - 4) A permit for a new BIF (those BIFs not operating under the interim status standards) must establish appropriate conditions for each of the applicable requirements of this Section, including but not limited to allowable hazardous waste firing rates and operating conditions necessary to meet the requirements of subsection (e), in order to comply with the following standards:
    - A) For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the device to a point of operational readiness to conduct a trial burn, not to exceed a duration of 720 hours operating time when burning hazardous waste, the operating requirements must be those most likely to ensure compliance with the emission standards of Sections 726.204 through 726.207, based on the Agency's engineering judgment. If the applicant is seeking a waiver from a trial burn to demonstrate conformance with a particular emission standard, the operating requirements during this initial period of operation must include those specified by the applicable provisions of Section 726.204, Section 726.205, Section 726.206, or Section 726.207. The Agency must extend the duration of this period for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

- B) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the emissions standards of Sections 726.204 through 726.207 and must be in accordance with the approved trial burn plan;
  - C) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, submission of the trial burn results by the applicant, review of the trial burn results, and modification of the facility permit by the Agency to reflect the trial burn results, the operating requirements must be those most likely to ensure compliance with the emission standards Sections 726.204 through 726.207 based on the Agency's engineering judgment.
  - D) For the remaining duration of the permit, the operating requirements must be those demonstrated in a trial burn or by alternative data specified in 35 Ill. Adm. Code 703.208, as sufficient to ensure compliance with the emissions standards of Sections 726.204 through 726.207.
- e) Operating Requirements
- 1) General. A BIF burning hazardous waste must be operated in accordance with the operating requirements specified in the permit at all times when there is hazardous waste in the unit.
  - 2) Requirements to Ensure Compliance with the Organic Emissions Standards
    - A) DRE (destruction or removal efficiency) Standard. Operating conditions must be specified in either of the following ways: on a case-by-case basis for each hazardous waste burned, which conditions must be demonstrated (in a trial burn or by alternative data, as specified in 35 Ill. Adm. Code 703.208) to be sufficient to comply with the DRE performance standard of Section 726.204(a), or as special operating requirements provided by Section 726.204(a)(4) for the waiver of the DRE trial burn. When the DRE trial burn is not waived under Section 726.204(a)(4), each set of operating requirements must specify the composition of the hazardous waste (including acceptable variations in the physical and chemical properties of the hazardous waste that will not affect compliance with the DRE performance standard) to which the operating requirements apply. For each ~~such~~ hazardous waste, the permit must specify acceptable operating limits including, but not limited to, the following conditions, as appropriate:

- i) Feed rate of hazardous waste and other fuels measured and specified as prescribed in subsection (e)(6);
  - ii) Minimum and maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subsection (e)(6);
  - iii) Appropriate controls of the hazardous waste firing system;
  - iv) Allowable variation in BIF system design or operating procedures;
  - v) Minimum combustion gas temperature measured at a location indicative of combustion chamber temperature, measured, and specified as prescribed in subsection (e)(6);
  - vi) An appropriate indicator of combustion gas velocity, measured and specified as prescribed in subsection (e)(6), unless documentation is provided under 35 Ill. Adm. Code 703.232 demonstrating adequate combustion gas residence time; and
  - vii) Any Such other operating requirements that as are necessary to ensure that the DRE performance standard of Section 726.204(a) is met.
- B) CO and Hydrocarbon (HC) Standards. The permit must incorporate a CO limit and, as appropriate, a HC limit as provided by Section 726.204(b), (c), (d), (e), and (f). The permit limits must be specified as follows:
- i) When complying with the CO standard of Section 726.204(b)(1), the permit limit is 100 ppmv;
  - ii) When complying with the alternative CO standard under Section 726.204(c), the permit limit for CO is based on the trial burn and is established as the average over all valid runs of the highest hourly rolling average CO level of each run; and, the permit limit for HC is 20 ppmv (as defined in Section 726.204(c)(1)), except as provided in Section 726.204(f); or
  - iii) When complying with the alternative HC limit for industrial furnaces under Section 726.204(f), the permit limit for HC and CO is the baseline level when hazardous waste is not burned as specified by that subsection.

- C) Start-Up and Shut-Down. During start-up and shut-down of the BIF, hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine, and except low risk waste exempt from the trial burn requirements under Sections 726.204(a)(5), 726.205, 726.206, and 726.207) must not be fed into the device, unless the device is operating within the conditions of operation specified in the permit.
- 3) Requirements to Ensure Conformance with the Particulate Matter (PM) Standard
- A) Except as provided in subsections (e)(3)(B) and (e)(3)(C), the permit must specify the following operating requirements to ensure conformance with the PM standard specified in Section 726.205:
- i) Total ash feed rate to the device from hazardous waste, other fuels, and industrial furnace feedstocks, measured and specified as prescribed in subsection (e)(6);
  - ii) Maximum device production rate when producing normal product expressed in appropriate units, and measured and specified as prescribed in subsection (e)(6);
  - iii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any air pollution control system (APCS);
  - iv) Allowable variation in BIF system design including any APCS or operating procedures; and
  - v) Any Such other operating requirements that as are necessary to ensure that the PM standard in Section 726.205(a) is met.
- B) Permit conditions to ensure conformance with the PM standard must not be provided for facilities exempt from the PM standard under Section 726.205(b);
- C) For cement kilns and light-weight aggregate kilns, permit conditions to ensure compliance with the PM standard must not limit the ash content of hazardous waste or other feed materials.
- 4) Requirements to Ensure Conformance with the Metals Emissions Standard
- A) For conformance with the Tier I (or adjusted Tier I) metals feed rate screening limits of Section 726.206(b) or (e), the permit must specify the following operating requirements:

- i) Total feed rate of each metal in hazardous waste, other fuels and industrial furnace feedstocks measured and specified under provisions of subsection (e)(6);
  - ii) Total feed rate of hazardous waste measured and specified as prescribed in subsection (e)(6); and
  - iii) A sampling and metals analysis program for the hazardous waste, other fuels and industrial furnace feedstocks;
- B) For conformance with the Tier II metals emission rate screening limits under Section 726.206(c) and the Tier III metals controls under Section 726.206(d), the permit must specify the following operating requirements:
- i) Maximum emission rate for each metal specified as the average emission rate during the trial burn;
  - ii) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in subsection (e)(6)(A);
  - iii) Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subsections (e)(6): total feed streams; total hazardous waste feed; and total pumpable hazardous waste feed;
- BOARD NOTE: The Board has combined the text of 40 CFR 266.102(e)(4)(ii)(C)(1) and (e)(4)(ii)(C)(2) into this subsection (e)(4)(B)(iii) to comport with Illinois Administrative Code codification requirements.
- iv) Total feed rate of chlorine and chloride in total feed streams measured and specified as prescribed in subsection (e)(6);
  - v) Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subsection (e)(6);
  - vi) Maximum flue gas temperature at the inlet to the PM APCS measured and specified as prescribed in subsection (e)(6);
  - vii) Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subsection (e)(6);

- viii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;
  - ix) Allowable variation in BIF system design including any APCS or operating procedures; and
  - x) ~~Any such~~ other operating requirements ~~that as~~ are necessary to ensure that the metals standards under Section 726.206(c) or (d) are met.
- C) For conformance with an alternative implementation approach approved by the Agency under Section 726.206(f), the permit must specify the following operating requirements:
- i) Maximum emission rate for each metal specified as the average emission rate during the trial burn;
  - ii) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and specified as prescribed in subsection (e)(6)(A);
  - iii) Feed rate of each metal in the following feedstreams, measured and specified as prescribed in subsection (e)(6): total hazardous waste feed; and total pumpable hazardous waste feed;
- BOARD NOTE: The Board has combined the text of 40 CFR 266.102(e)(4)(iii)(C)(1) and (e)(4)(iii)(C)(2) into this subsection (e)(4)(C)(iii) to comport with Illinois Administrative Code codification requirements.
- iv) Total feed rate of chlorine and chloride in total feed streams measured and specified prescribed in subsection (e)(6);
  - v) Maximum combustion gas temperature measured at a location indicative of combustion chamber temperature, and measured and specified as prescribed in subsection (e)(6);
  - vi) Maximum flue gas temperature at the inlet to the PM APCS measured and specified as prescribed in subsection (e)(6);
  - vii) Maximum device production rate when producing normal product expressed in appropriate units and measured and specified as prescribed in subsection (e)(6);

- viii) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;
  - ix) Allowable variation in BIF system design including any APCS or operating procedures; and
  - x) ~~Any such~~ other operating requirements ~~that as~~ are necessary to ensure that the metals standards under Section 726.206(c) or (d) are met.
- 5) Requirements to Ensure Conformance with the HCl and Chlorine Gas Standards
- A) For conformance with the Tier I total chlorine and chloride feed rate screening limits of Section 726.207(b)(1), the permit must specify the following operating requirements:
    - i) Feed rate of total chlorine and chloride in hazardous waste, other fuels and industrial furnace feedstocks measured and specified as prescribed in subsection (e)(6);
    - ii) Feed rate of total hazardous waste measured and specified as prescribed in subsection (e)(6); and
    - iii) A sampling and analysis program for total chlorine and chloride for the hazardous waste, other fuels and industrial furnace feedstocks;
  - B) For conformance with the Tier II HCl and chlorine gas emission rate screening limits under Section 726.207(b)(2) and the Tier III HCl and chlorine gas controls under Section 726.207(c), the permit must specify the following operating requirements:
    - i) Maximum emission rate for HCl and for chlorine gas specified as the average emission rate during the trial burn;
    - ii) Feed rate of total hazardous waste measured and specified as prescribed in subsection (e)(6);
    - iii) Total feed rate of chlorine and chloride in total feed streams, measured and specified as prescribed in subsection (e)(6);
    - iv) Maximum device production rate when producing normal product expressed in appropriate units, measured and specified as prescribed in subsection (e)(6);

- v) Appropriate controls on operation and maintenance of the hazardous waste firing system and any APCS;
- vi) Allowable variation in BIF system design including any APCS or operating procedures; and
- vii) ~~Any such~~ other operating requirements ~~that as~~ are necessary to ensure that the HCl and chlorine gas standards under Section 726.207(b)(2) or (c) are met.

6) Measuring Parameters and Establishing Limits Based on Trial Burn Data

A) General Requirements. As specified in subsections (e)(2) through (e)(5), each operating parameter must be measured, and permit limits on the parameter must be established, according to either of the following procedures:

- i) Instantaneous Limits. A parameter is measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the permit limit specified as the time-weighted average during all valid runs of the trial burn; or
- ii) Hourly Rolling Average. The limit for a parameter must be established and continuously monitored on an hourly rolling average basis, as defined in Section 726.200(i). The permit limit for the parameter must be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average value for each run.

BOARD NOTE: The Board has combined the text of 40 CFR 266.102(e)(6)(i)(B)(1) and (e)(6)(i)(B)(2) into this subsection (e)(6)(A)(ii) and moved the text of 40 CFR 266.102(e)(6)(i)(B)(1)(i) and (e)(6)(i)(B)(1)(ii) to appear as definitions of “continuous monitor” and “hourly rolling average”, respectively, in Section 726.200(i) to comport with Illinois Administrative Code codification requirements.

B) Rolling Average Limits for Carcinogenic Metals and Lead. Feed rate limits for the carcinogenic metals (as defined in Section 726.200(i)) and lead must be established either on an hourly rolling average basis, as prescribed by subsection (e)(6)(A), or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an average period from 2 to 24 hours, the following requirements apply:

- i) The feed rate of each metal must be limited at any time to ten times the feed rate that would be allowed on an hourly rolling average basis;
- ii) The continuous monitor must meet the specifications of “continuous monitor”, “rolling average for the selected averaging period”, and “one hour block average” as defined in Section 726.200(i); and

BOARD NOTE: The Board has moved the text of 40 CFR 266.102(e)(6)(ii)(B)(1) and (e)(6)(ii)(B)(2) to appear as definitions in Section 726.200(i) to comport with Illinois Administrative Code codification requirements.

- iii) The permit limit for the feed rate of each metal must be established based on trial burn data as the average over all valid test runs of the highest hourly rolling average feed rate for each run.
- C) Feed Rate Limits for Metals, Total Chlorine and Chloride, and Ash. Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of subsections (e)(6)(A) and (e)(6)(B).
- D) Conducting Trial Burn Testing
- i) If compliance with all applicable emissions standards of Sections 726.204 through 726.207 is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.
  - ii) Prior to obtaining test data for purposes of demonstrating compliance with the emissions standards of Sections 726.204 through 726.207 or establishing limits on operating parameters under this Section, the unit must operate under trial burn conditions for a sufficient period to reach steady-state operations. However, industrial furnaces that recycle collected PM back into the furnace and that comply with an alternative implementation approach for metals under

Section 726.206(f) need not reach steady state conditions with respect to the flow of metals in the system prior to beginning compliance testing for metals emissions.

- iii) Trial burn data on the level of an operating parameter for which a limit must be established in the permit must be obtained during emissions sampling for the pollutants (i.e., metals, PM, HCl/chlorine gas, organic compounds) for which the parameter must be established as specified by this subsection (e).

7) General Requirements

- A) Fugitive Emissions. Fugitive emissions must be controlled in one of the following ways:
  - i) By keeping the combustion zone totally sealed against fugitive emissions;
  - ii) By maintaining the combustion zone pressure lower than atmospheric pressure; or
  - iii) By an alternative means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.
- B) Automatic Waste Feed Cutoff. A BIF must be operated with a functioning system that automatically cuts off the hazardous waste feed when operating conditions deviate from those established under this Section. In addition, the following requirements apply:
  - i) The permit limit for (the indicator of) minimum combustion chamber temperature must be maintained while hazardous waste or hazardous waste residues remain in the combustion chamber;
  - ii) Exhaust gases must be ducted to the APCS operated in accordance with the permit requirements while hazardous waste or hazardous waste residues remain in the combustion chamber; and
  - iii) Operating parameters for which permit limits are established must continue to be monitored during the cutoff, and the hazardous waste feed must not be restarted until the levels of those parameters comply with the permit limits. For

parameters that are monitored on an instantaneous basis, the Agency must establish a minimum period of time after a waste feed cutoff during which the parameter must not exceed the permit limit before the hazardous waste feed is restarted.

- C) Changes. A BIF must cease burning hazardous waste when combustion properties or feed rates of the hazardous waste, other fuels or industrial furnace feedstocks, or the BIF design or operating conditions deviate from the limits as specified in the permit.

8) Monitoring and Inspections

- A) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:
  - i) If specified by the permit, feed rates and composition of hazardous waste, other fuels, and industrial furnace feedstocks and feed rates of ash, metals, and total chlorine and chloride;
  - ii) If specified by the permit, CO, HCs, and oxygen on a continuous basis at a common point in the BIF downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with operating requirements specified in subsection (e)(2)(B). CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix I; and
  - iii) Upon the request of the Agency, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feedstocks as appropriate), residues, and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the applicable standards of Sections 726.204, 726.205, 726.206, and 726.207.
- B) All monitors must record data in units corresponding to the permit limit unless otherwise specified in the permit.
- C) The BIF and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when it contains hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.
- D) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every seven days when hazardous

waste is burned to verify operability, unless the applicant demonstrates to the Agency that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. At a minimum, operational testing must be conducted at least once every 30 days.

- E) These monitoring and inspection data must be recorded and the records must be placed in the operating record required by 35 Ill. Adm. Code 724.173.
- 9) Direct Transfer to the Burner. If hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit, the owner and operator must comply with Section 726.211.
- 10) Recordkeeping. The owner or operator must maintain in the operating record of the facility all information and data required by this Section for five years.
- 11) Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the BIF.

(Source: Amended at 44 Ill. Reg. 15427, effective September 3, 2020)

### **Section 726.203 Interim Status Standards for Burners**

- a) Purpose, Scope, and Applicability
  - 1) General
    - A) The purpose of this Section is to establish minimum national standards for owners and operators of “existing” BIFs that burn hazardous waste if the ~~where such~~ standards define the acceptable management of hazardous waste during the period of interim status. The standards of this Section apply to owners and operators of existing facilities until either a permit is issued under Section 726.202(d) or until closure responsibilities identified in this Section are fulfilled.
    - B) “Existing” or “in existence” means a BIF for which the owner or operator filed a certification of precompliance with USEPA under ~~pursuant to~~ federal 40 CFR 266.103(b); provided, however, that USEPA has not determined that the certification is invalid.
    - C) If a BIF is located at a facility that already has a RCRA permit or interim status, then the owner or operator must comply with the

applicable regulations dealing with permit modifications in 35 Ill. Adm. Code 703.280 or changes in interim status in 35 Ill. Adm. Code 703.155.

- 2) Exemptions. The requirements of this Section do not apply to hazardous waste and facilities exempt under Section 726.200(b) or 726.208.
- 3) Prohibition on Burning Dioxin-Listed Wastes. The following hazardous waste listed for dioxin and hazardous waste derived from any of these wastes must not be burned in a BIF operating under interim status: USEPA hazardous waste numbers F020, F021, F022, F023, F026, and F027.
- 4) Applicability of 35 Ill. Adm. Code 725 Standards. An owner or operator of a BIF that burns hazardous waste and ~~that which~~ is operating under interim status is subject to the following provisions of 35 Ill. Adm. Code 725, except as provided otherwise by this Section:
  - A) In Subpart A of 35 Ill. Adm. Code 725 (General), 35 Ill. Adm. Code 725.104;
  - B) In Subpart B of 35 Ill. Adm. Code 725 (General facility standards), 35 Ill. Adm. Code 725.111 through 725.117;
  - C) In Subpart C of 35 Ill. Adm. Code 725 (Preparedness and prevention), 35 Ill. Adm. Code 725.131 through 725.137;
  - D) In Subpart D of 35 Ill. Adm. Code 725 (Contingency plan and emergency procedures), 35 Ill. Adm. Code 725.151 through 725.156;
  - E) In Subpart E of 35 Ill. Adm. Code 725 (Manifest system, recordkeeping and reporting), 35 Ill. Adm. Code 725.171 through 725.177, except that 35 Ill. Adm. Code 725.171, 725.172 and 725.176 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources;
  - F) In Subpart G of 35 Ill. Adm. Code 725 (Closure and post-closure), 35 Ill. Adm. Code 725.211 through 725.215;
  - G) In Subpart H of 35 Ill. Adm. Code 725 (Financial requirements), 35 Ill. Adm. Code 725.241, 725.242, 725.243, and 725.247 through 725.250, except that the State of Illinois and the federal government are exempt from the requirements of Subpart H of 35 Ill. Adm. Code 725; and
  - H) In Subpart BB of 35 Ill. Adm. Code 725 (Air emission standards for equipment leaks), except 35 Ill. Adm. Code 725.950(a).

5) Special Requirements for Furnaces. The following controls apply during interim status to industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see subsection (a)(5)(B)) at any location other than the hot end where products are normally discharged or where fuels are normally fired:

A) Controls

- i) The hazardous waste must be fed at a location where combustion gas temperature is at least 1800 °F;
- ii) The owner or operator must determine that adequate oxygen is present in combustion gases to combust organic constituents in the waste and retain documentation of this ~~such~~ determination in the facility record;
- iii) For cement kiln systems, the hazardous waste must be fed into the kiln; and
- iv) The HC controls of Section 726.204(f) or subsection (c)(5) apply upon certification of compliance under subsection (c), irrespective of the CO level achieved during the compliance test.

B) Burning Hazardous Waste Solely as an Ingredient. A hazardous waste is burned for a purpose other than “solely as an ingredient” if it meets either of the following criteria:

- i) The hazardous waste has a total concentration of nonmetal compounds listed in Appendix H of 35 Ill. Adm. Code 721, exceeding 500 ppm by weight, as fired and so is considered to be burned for destruction. The concentration of nonmetal compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys nonmetal constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted must be retained in the facility record; or
- ii) The hazardous waste has a heating value of 5,000 Btu/lb or more, as fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys

organic constituents. Blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly blended must be retained in the facility record.

- 6) Restrictions on Burning Hazardous Waste That Is Not a Fuel. Prior to certification of compliance under subsection (c), an owner or operator must not feed hazardous waste that has a heating value less than 5000 Btu/lb, as generated, (except that the heating value of a waste as-generated may be increased to above the 5,000 Btu/lb limit by bona fide treatment; however blending to augment the heating value to meet the 5,000 Btu/lb limit is prohibited and records must be kept to document that impermissible blending has not occurred) in a BIF, except that the following may occur:
- A) Hazardous waste may be burned solely as an ingredient;
  - B) Hazardous waste may be burned for purposes of compliance testing (or testing prior to compliance testing) for a total period of time not to exceed 720 hours;
  - C) This ~~Such~~ waste may be burned if the Agency has documentation to show that the following was true prior to August 21, 1991:
    - i) The BIF was operating under the interim status standards for incinerators or thermal treatment units, Subparts O or P of 35 Ill. Adm. Code 725;
    - ii) The BIF met the interim status eligibility requirements under 35 Ill. Adm. Code 703.153 for Subparts O or P of 35 Ill. Adm. Code 725; and
    - iii) Hazardous waste with a heating value less than 5,000 Btu/lb was burned prior to that date; or
  - D) This ~~Such~~ waste may be burned in a halogen acid furnace if the waste was burned as an excluded ingredient under 35 Ill. Adm. Code 721.102(e) prior to February 21, 1991, and documentation is kept on file supporting this claim.
- 7) Direct Transfer to the Burner. If hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit, the owner or operator must comply with Section 726.211.
- b) Certification of Precompliance. This subsection (b) corresponds with 40 CFR 266.103(b), under which USEPA required certain owners and operators to file a certification of precompliance by August 21, 1991. No similar filing with the

Agency was required, so the Board did not incorporate the federal filing requirement into the Illinois regulations. This statement maintains structural parity with the federal regulations.

- c) Certification of Compliance. The owner or operator must conduct emissions testing to document compliance with the emissions standards of Sections 726.204(b) through (e), 726.205, 726.206, and 726.207 and subsection (a)(5)(A)(iv) under the procedures prescribed by this subsection (c). Based on the compliance test, the owner or operator must submit to the Agency a complete and accurate “certification of compliance” (under subsection (c)(4)) with those emission standards establishing limits on the operating parameters specified in subsection (c)(1).
- 1) Limits on Operating Conditions. The owner or operator must establish limits on the following parameters based on operations during the compliance test (under procedures prescribed in subsection (c)(4)(D)) or as otherwise specified and include these limits with the certification of compliance. The BIF must be operated in accordance with these operating limits and the applicable emissions standards of Sections 726.204(b) through (e), 726.205, 726.206, and 726.207 and subsection (a)(5)(A)(iv) at all times when there is hazardous waste in the unit.
- A) Feed rate of total hazardous waste and (unless complying the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e)), pumpable hazardous waste;
- B) Feed rate of each metal in the following feedstreams:
- i) Total feedstreams, except that industrial furnaces ~~that which~~ must comply with the alternative metals implementation approach under subsection (c)(3)(B) must specify limits on the concentration of each metal in collected PM in lieu of feed rate limits for total feedstreams; and facilities that comply with Tier I or Adjusted Tier I metals feed rate screening limits may set their operating limits at the metal feed rate screening limits determined under Section 726.206(b) or (e);
- BOARD NOTE: Federal subsections 266.103(c)(1)(ii)(A)(1) and (c)(1)(ii)(A)(2) are condensed into subsection (c)(1)(B)(i).
- ii) Total hazardous waste feed (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e)); and

- iii) Total pumpable hazardous waste feed (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e));
- C) Total feed rate of total chlorine and chloride in total feed streams, except that facilities that comply with Tier I or Adjusted Tier I feed rate screening limits may set their operating limits at the total chlorine and chloride feed rate screening limits determined under Section 726.207(b)(1) or (e);
- D) Total feed rate of ash in total feed streams, except that the ash feed rate for cement kilns and light-weight aggregate kilns is not limited;
- E) CO Concentration, and ~~If Where~~ Required, HC Concentration in Stack Gas. When complying with the CO controls of Section 726.204(b), the CO limit is 100 ppmv, and when complying with the HC controls of Section 726.204(c), the HC limit is 20 ppmv. When complying with the CO controls of Section 726.204(c), the CO limit is established based on the compliance test;
- F) Maximum production rate of the device in appropriate units when producing normal product unless complying with Tier I or Adjusted Tier I feed rate screening limits for chlorine under Section 726.207(b)(1) or (e) and for all metals under Section 726.206(b) or (e), and the uncontrolled particulate emissions do not exceed the standard under Section 726.205;
- G) Maximum combustion chamber temperature ~~if where~~ the temperature measurement is as close to the combustion zone as possible and is upstream of any quench water injection, (unless complying with the Tier I adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e));
- H) Maximum flue gas temperature entering a PM control device (unless complying with Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b) or (e));
- I) For systems using wet scrubbers, including wet ionizing scrubbers (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)):
  - i) Minimum liquid to flue gas ratio;

- ii) Minimum scrubber blowdown from the system or maximum suspended solids content of scrubber water; and
    - iii) Minimum pH level of the scrubber water;
  - J) For systems using venturi scrubbers, the minimum differential gas pressure across the venturi (unless complying the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e));
  - K) For systems using dry scrubbers (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)):
    - i) Minimum caustic feed rate; and
    - ii) Maximum flue gas flow rate;
  - L) For systems using wet ionizing scrubbers or electrostatic precipitators (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)):
    - i) Minimum electrical power in kVA to the precipitator plates; and
    - ii) Maximum flue gas flow rate;
  - M) For systems using fabric filters (baghouses), the minimum pressure drop (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under Section 726.206(b) or (e) and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)).
- 2) Prior Notice of Compliance Testing. At least 30 days prior to the compliance testing required by subsection (c)(3), the owner or operator must notify the Agency and submit the following information:
- A) General facility information including:
    - i) USEPA facility ID number;

- ii) Facility name, contact person, telephone number, and address;
  - iii) Person responsible for conducting compliance test, including company name, address, and telephone number, and a statement of qualifications;
  - iv) Planned date of the compliance test;
- B) Specific information on each device to be tested, including the following:
- i) A Description of BIF;
  - ii) A scaled plot plan showing the entire facility and location of the BIF;
  - iii) A description of the APCS;
  - iv) Identification of the continuous emission monitors that are installed, including the following: CO monitor; Oxygen monitor; HC monitor, specifying the minimum temperature of the system, and, if the temperature is less than 150 °C, an explanation of why a heated system is not used (see subsection (c)(5)) and a brief description of the sample gas conditioning system;
- BOARD NOTE: The Board has combined the text of 40 CFR 266.103(c)(2)(ii)(D)(1) through (c)(2)(ii)(D)(3) into this subsection (c)(2)(B)(iv) to comport with Illinois Administrative Code codification requirements.
- v) Indication of whether the stack is shared with another device that will be in operation during the compliance test; and
  - vi) Other information useful to an understanding of the system design or operation; and
- C) Information on the testing planned, including a complete copy of the test protocol and QA/QC plan, and a summary description for each test providing the following information at a minimum:
- i) Purpose of the test (e.g., demonstrate compliance with emissions of PM); and

- ii) Planned operating conditions, including levels for each pertinent parameter specified in subsection (c)(1).

3) Compliance Testing

- A) General. Compliance testing must be conducted under conditions for which the owner or operator has submitted a certification of precompliance under subsection (b) and under conditions established in the notification of compliance testing required by subsection (c)(2). The owner or operator may seek approval on a case-by-case basis to use compliance test data from one unit in lieu of testing a similar on-site unit. To support the request, the owner or operator must provide a comparison of the hazardous waste burned and other feedstreams, and the design, operation, and maintenance of both the tested unit and the similar unit. The Agency must provide a written approval to use compliance test data in lieu of testing a similar unit if the Agency finds that the hazardous wastes, devices and the operating conditions are sufficiently similar, and the data from the other compliance test is adequate to meet the requirements of this subsection (c).
- B) Special Requirements for Industrial Furnaces that Recycle Collected PM. Owners and operators of industrial furnaces that recycle back into the furnace PM from the APCS must comply with one of the following procedures for testing to determine compliance with the metals standards of Section 726.206(c) or (d):
  - i) The special testing requirements prescribed in “Alternative Method for Implementing Metals Controls” in Appendix I;
  - ii) Stack emissions testing for a minimum of six hours each day while hazardous waste is burned during interim status. The testing must be conducted when burning normal hazardous waste for that day at normal feed rates for that day and when the APCS is operated under normal conditions. During interim status, hazardous waste analysis for metals content must be sufficient for the owner or operator to determine if changes in metals content affect the ability of the unit to meet the metals emissions standards established under Section 726.206(c) or (d). Under this option, operating limits (under subsection (c)(1)) must be established during compliance testing under this subsection (c)(3) only on the following parameters: feed rate of total hazardous waste; total feed rate of total chlorine and chloride in total feed streams; total feed rate of ash in total feed streams, except that the ash feed rate

for cement kilns and light-weight aggregate kilns is not limited; CO concentration, and ~~if where~~ required, HC concentration in stack gas; and maximum production rate of the device in appropriate units when producing normal product; or

BOARD NOTE: The Board has combined the text of 40 CFR 266.103(c)(3)(ii)(B)(1) through (c)(3)(ii)(B)(5) into this subsection (c)(3)(B)(ii) to comport with Illinois Administrative Code codification requirements.

- iii) Conduct compliance testing to determine compliance with the metals standards to establish limits on the operating parameters of subsection (c)(1) only after the kiln system has been conditioned to enable it to reach equilibrium with respect to metals fed into the system and metals emissions. During conditioning, hazardous waste and raw materials having the same metals content as will be fed during the compliance test must be fed at the feed rates that will be fed during the compliance test.

C) Conduct of Compliance Testing

- i) If compliance with all applicable emissions standards of Sections 726.204 through 726.207 is not demonstrated simultaneously during a set of test runs, the operating conditions of additional test runs required to demonstrate compliance with remaining emissions standards must be as close as possible to the original operating conditions.
- ii) Prior to obtaining test data for purposes of demonstrating compliance with the applicable emissions standards of Sections 726.204 through 726.207 or establishing limits on operating parameters under this Section, the facility must operate under compliance test conditions for a sufficient period to reach steady-state operations. Industrial furnaces that recycle collected PM back into the furnace and that comply with subsection (c)(3)(B)(i) or (c)(3)(B)(ii), however, need not reach steady state conditions with respect to the flow of metals in the system prior to beginning compliance testing for metals.
- iii) Compliance test data on the level of an operating parameter for which a limit must be established in the certification of compliance must be obtained during emissions sampling for

the pollutants (i.e., metals, PM, HCl/chlorine gas, organic compounds) for which the parameter must be established as specified by subsection (c)(1).

- 4) Certification of Compliance. Within 90 days of completing compliance testing, the owner or operator must certify to the Agency compliance with the emissions standards of Sections 726.204(b), (c) and (e); 726.205; 726.206; 726.207; and subsection (a)(5)(A)(iv). The certification of compliance must include the following information:
  - A) General facility and testing information, including the following:
    - i) USEPA facility ID number;
    - ii) Facility name, contact person, telephone number, and address;
    - iii) Person responsible for conducting compliance testing, including company name, address, and telephone number, and a statement of qualifications;
    - iv) Dates of each compliance test;
    - v) Description of BIF tested;
    - vi) Person responsible for QA/QC, title and telephone number, and statement that procedures prescribed in the QA/QC plan submitted under Section 726.203(c)(2)(C) have been followed, or a description of any changes and an explanation of why changes were necessary;
    - vii) Description of any changes in the unit configuration prior to or during testing that would alter any of the information submitted in the prior notice of compliance testing under subsection (c)(2) and an explanation of why the changes were necessary;
    - viii) Description of any changes in the planned test conditions prior to or during the testing that alter any of the information submitted in the prior notice of compliance testing under subsection (c)(2) and an explanation of why the changes were necessary; and
    - ix) The complete report on results of emissions testing.
  - B) Specific information on each test, including the following:

- i) Purposes of test (e.g., demonstrate conformance with the emissions limits for PM, metals, HCl, chlorine gas, and CO);
- ii) Summary of test results for each run and for each test including the following information: date of run; duration of run; time-weighted average and highest hourly rolling average CO level for each run and for the test; highest hourly rolling average HC level, if HC monitoring is required for each run and for the test; if dioxin and furan testing is required under Section 726.204(e), time-weighted average emissions for each run and for the test of chlorinated dioxin and furan emissions, and the predicted maximum annual average ground level concentration of the toxicity equivalency factor (defined in Section 726.200(i)); time-weighted average PM emissions for each run and for the test; time-weighted average HCl and chlorine gas emissions for each run and for the test; time-weighted average emissions for the metals subject to regulation under Section 726.206 for each run and for the test; and QA/QC results.

BOARD NOTE: The Board has combined the text of 40 CFR 266.103(c)(4)(ii)(B)(1) through (c)(4)(ii)(B)(9) into this subsection (c)(4)(B)(ii) to comport with Illinois Administrative Code codification requirements.

- C) Comparison of the actual emissions during each test with the emissions limits prescribed by Sections 726.204(b), (c), and (e); 726.205; 726.206; and 726.207 and established for the facility in the certification of precompliance under subsection (b).
- D) Determination of operating limits based on all valid runs of the compliance test for each applicable parameter listed in subsection (c)(1) using one of the following procedures:
  - i) Instantaneous limits. A parameter must be measured and recorded on an instantaneous basis (i.e., the value that occurs at any time) and the operating limit specified as the time-weighted average during all runs of the compliance test.
  - ii) Hourly rolling average basis. The limit for a parameter must be established and continuously monitored on an hourly rolling average basis, as defined in Section 726.200(i). The operating limit for the parameter must be established based on compliance test data as the average over all test runs of the highest hourly rolling average value for each run.

BOARD NOTE: The Board has combined the text of 40 CFR 266.103(c)(4)(iv)(B)(1) and (c)(4)(iv)(B)(2) into this subsection (c)(4)(D)(ii) and moved the text of 40 CFR 266.103(c)(4)(iv)(B)(1)(i) and (c)(4)(iv)(B)(1)(ii) to appear as definitions in Section 726.200(i) to comport with Illinois Administrative Code codification requirements.

- iii) Rolling average limits for carcinogenic metals (as defined in Section 726.200(i)) and lead. Feed rate limits for the carcinogenic metals and lead must be established either on an hourly rolling average basis as prescribed by subsection (c)(4)(D)(ii) or on (up to) a 24 hour rolling average basis. If the owner or operator elects to use an averaging period from two to 24 hours the following must occur: the feed rate of each metal must be limited at any time to ten times the feed rate that would be allowed on a hourly rolling average basis; the operating limit for the feed rate of each metal must be established based on compliance test data as the average over all test runs of the highest hourly rolling average feed rate for each run; and the continuous monitor and the rolling average for the selected averaging period are as defined in Section 726.200(i).

BOARD NOTE: The Board has combined the text of 40 CFR 266.103(c)(4)(iv)(C)(1) through (c)(4)(iv)(C)(3) into subsection (c)(4)(D)(iii) and moved the text of 40 CFR 266.103(c)(4)(iv)(C)(2)(i) and (c)(4)(iv)(C)(2)(ii) to appear as definitions in Section 726.200(i) to comport with Illinois Administrative Code codification requirements.

- iv) Feed rate limits for metals, total chlorine and chloride, and ash. Feed rate limits for metals, total chlorine and chloride, and ash are established and monitored by knowing the concentration of the substance (i.e., metals, chloride/chlorine, and ash) in each feedstream and the flow rate of the feedstream. To monitor the feed rate of these substances, the flow rate of each feedstream must be monitored under the continuous monitoring requirements of subsections (c)(4)(D)(i) through (c)(4)(D)(iii).

- E) Certification of Compliance Statement. The following statement must accompany the certification of compliance:

“I certify under penalty of law that this information was prepared under my direction or supervision in accordance

with a system designed to ensure that qualified personnel properly gathered and evaluated the information and supporting documentation. Copies of all emissions tests, dispersion modeling results, and other information used to determine conformance with the requirements of 35 Ill. Adm. Code 726.203(c) are available at the facility and can be obtained from the facility contact person listed above. Based on my inquiry of the person or persons who manage the facility, or those persons directly responsible for gathering the information, the information submitted 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.

I also acknowledge that the operating limits established under ~~pursuant to~~ 35 Ill. Adm. Code 726.203(c)(4)(D) are enforceable limits at which the facility can legally operate during interim status until a revised certification of compliance is submitted.”

- 5) Special Requirements for HC Monitoring Systems. When an owner or operator is required to comply with the HC controls provided by Section 726.204(c) or subsection (a)(5)(A)(iv), a conditioned gas monitoring system may be used in conformance with specifications provided in Appendix I provided that the owner or operator submits a certification of compliance without using extensions of time provided by subsection (c)(7).
- 6) Special Operating Requirements for Industrial Furnaces that Recycle Collected PM. Owners and operators of industrial furnaces that recycle back into the furnace PM from the APCS must do the following:
  - A) When complying with the requirements of subsection (c)(3)(B)(i), comply with the operating requirements prescribed in “Alternative Method to Implement the Metals Controls” in Appendix I; and
  - B) When complying with the requirements of subsection (c)(3)(B)(ii), comply with the operating requirements prescribed by that subsection.
- 7) An owner or operator that did not submit a complete certification of compliance for ~~all of~~ the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 by August 21, 1992 must stop burning hazardous waste and begin closure activities under subsection (l) for the hazardous waste portion of the facility.

- 8) Revised Certification of Compliance. The owner or operator may submit at any time a revised certification of compliance (recertification of compliance) under the following procedures:
- A) Prior to submittal of a revised certification of compliance, hazardous waste must not be burned for more than a total of 720 hours under operating conditions that exceed those established under a current certification of compliance, and ~~this such~~ burning must be conducted only for purposes of determining whether the facility can operate under revised conditions and continue to meet the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207;
  - B) At least 30 days prior to first burning hazardous waste under operating conditions that exceed those established under a current certification of compliance, the owner or operator must notify the Agency and submit the following information:
    - i) USEPA facility ID number, and facility name, contact person, telephone number, and address;
    - ii) Operating conditions that the owner or operator is seeking to revise and description of the changes in facility design or operation that prompted the need to seek to revise the operating conditions;
    - iii) A determination that, when operating under the revised operating conditions, the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 are not likely to be exceeded. To document this determination, the owner or operator must submit the applicable information required under subsection (b)(2); and
    - iv) Complete emissions testing protocol for any pretesting and for a new compliance test to determine compliance with the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207 when operating under revised operating conditions. The protocol must include a schedule of pre-testing and compliance testing. If the owner or operator revises the scheduled date for the compliance test, the owner or operator must notify the Agency in writing at least 30 days prior to the revised date of the compliance test;
  - C) Conduct a compliance test under the revised operating conditions and the protocol submitted to the Agency to determine compliance

with the applicable emissions standards of Sections 726.204, 726.205, 726.206, and 726.207; and

- D) Submit a revised certification of compliance under subsection (c)(4).
- d) **Periodic Recertifications.** The owner or operator must conduct compliance testing and submit to the Agency a recertification of compliance under provisions of subsection (c) within five years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, the owner or operator must comply with the requirements of subsection (c)(8).
- e) **Noncompliance with Certification Schedule.** If the owner or operator does not comply with the interim status compliance schedule provided by subsections (b), (c), and (d), hazardous waste burning must terminate on the date that the deadline is missed, closure activities must begin under subsection (l), and hazardous waste burning must not resume except under an operating permit issued under 35 Ill. Adm. Code 703.232. For purposes of compliance with the closure provisions of subsection (l) and 35 Ill. Adm. Code 725.212(d)(2) and 725.213, the BIF has received “the known final volume of hazardous waste” on the date the deadline is missed.
- f) **Start-Up and Shut-Down.** Hazardous waste (except waste fed solely as an ingredient under the Tier I (or adjusted Tier I) feed rate screening limits for metals and chloride/chlorine) must not be fed into the device during start-up and shut-down of the BIF, unless the device is operating within the conditions of operation specified in the certification of compliance.
- g) **Automatic Waste Feed Cutoff.** During the compliance test required by subsection (c)(3) and upon certification of compliance under subsection (c), a BIF must be operated with a functioning system that automatically cuts off the hazardous waste feed when the applicable operating conditions specified in subsections (c)(1)(A) and (c)(1)(E) through (c)(1)(M) deviate from those established in the certification of compliance. In addition, the following must occur:
- 1) To minimize emissions of organic compounds, the minimum combustion chamber temperature (or the indicator of combustion chamber temperature) that occurred during the compliance test must be maintained while hazardous waste or hazardous waste residues remain in the combustion chamber, with the minimum temperature during the compliance test defined as either of the following:
- A) If compliance with the combustion chamber temperature limit is based on an hourly rolling average, the minimum temperature during

the compliance test is considered to be the average over all runs of the lowest hourly rolling average for each run; or

- B) If compliance with the combustion chamber temperature limit is based on an instantaneous temperature measurement, the minimum temperature during the compliance test is considered to be the time-weighted average temperature during all runs of the test; and
- 2) Operating parameters limited by the certification of compliance must continue to be monitored during the cutoff, and the hazardous waste feed must not be restarted until the levels of those parameters comply with the limits established in the certification of compliance.
- h) Fugitive Emissions. Fugitive emissions must be controlled as follows:
- 1) By keeping the combustion zone totally sealed against fugitive emissions; or
  - 2) By maintaining the combustion zone pressure lower than atmospheric pressure; or
  - 3) By an alternative means of control that the owner or operator demonstrates provides fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure. Support for the such demonstration must be included in the operating record.
- i) Changes. A BIF must cease burning hazardous waste when combustion properties, or feed rates of the hazardous waste, other fuels or industrial furnace feedstocks, or the BIF design or operating conditions deviate from the limits specified in the certification of compliance.
- j) Monitoring and Inspections
- 1) The owner or operator must monitor and record the following, at a minimum, while burning hazardous waste:
    - A) Feed rates and composition of hazardous waste, other fuels, and industrial furnace feed stocks and feed rates of ash, metals, and total chlorine and chloride as necessary to ensure conformance with the certification of precompliance or certification of compliance;
    - B) CO, oxygen, and, if applicable, HC on a continuous basis at a common point in the BIF downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with the operating limits specified in the certification of compliance. CO, HC, and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in Appendix I; and

- C) Upon the request of the Agency, sampling and analysis of the hazardous waste (and other fuels and industrial furnace feed stocks as appropriate) and the stack gas emissions must be conducted to verify that the operating conditions established in the certification of precompliance or certification of compliance achieve the applicable standards of Sections 726.204, 726.205, 726.206, and 726.207.
- 2) The BIF and associated equipment (pumps, valves, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when they contain hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.
- 3) The automatic hazardous waste feed cutoff system and associated alarms must be tested at least once every seven days when hazardous waste is burned to verify operability, unless the owner or operator can demonstrate that weekly inspections will unduly restrict or upset operations and that less frequent inspections will be adequate. Support for ~~the such~~ demonstration must be included in the operating record. At a minimum, operational testing must be conducted at least once every 30 days.
- 4) These monitoring and inspection data must be recorded and the records must be placed in the operating log.
- k) Recordkeeping. The owner or operator must keep in the operating record of the facility all information and data required by this Section for five years.
- l) Closure. At closure, the owner or operator must remove all hazardous waste and hazardous waste residues (including, ~~but not limited to,~~ ash, scrubber waters and scrubber sludges) from the BIF and must comply with 35 Ill. Adm. Code 725.211 through 725.215.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.204 Standards to Control Organic Emissions**

- a) DRE Standard
- 1) General. Except as provided in subsection (a)(3), a BIF burning hazardous waste must achieve a DRE of 99.99 percent for all organic hazardous constituents in the waste feed. To demonstrate conformance with this requirement, 99.99 percent DRE must be demonstrated during a trial burn for each principal organic hazardous constituent (POHC) designated (under subsection (a)(2)) in its permit for each waste feed. DRE is determined for each POHC from the following equation:

$$\text{DRE} = 100 \frac{\text{I} - \text{O}}{\text{I}}$$

Where:

I = Mass feed rate of one POHC in the hazardous waste fired to the BIF

O = Mass emission rate of the same POHC present in stack gas prior to release to the atmosphere

- 2) Designation of POHCs. POHCs are those compounds for which compliance with the DRE requirements of this Section must be demonstrated in a trial burn in conformance with procedures prescribed in 35 Ill. Adm. Code 703.232. One or more POHCs must be designated by the Agency for each waste feed to be burned. POHCs must be designated based on the degree of difficulty of destruction of the organic constituents in the waste and on their concentrations or mass in the waste feed considering the results of waste analyses submitted with Part B of the permit application. POHCs are most likely to be selected from among those compounds listed in Appendix H to 35 Ill. Adm. Code 721 that are also present in the normal waste feed. However, if the applicant demonstrates to the Agency that a compound not listed in Appendix H of 35 Ill. Adm. Code 721 or not present in the normal waste feed is a suitable indicator of compliance with the DRE requirements of this Section, that compound must be designated as a POHC. ~~These Such~~ POHCs need not be toxic or organic compounds.
- 3) Dioxin-Listed Waste. A BIF burning hazardous waste containing (or derived from) USEPA Hazardous Wastes Nos. F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999 percent for each POHC designated (under subsection (a)(2)) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in subsection (a)(1). In addition, the owner or operator of the BIF must notify the Agency of intent to burn USEPA hazardous waste numbers F020, F021, F022, F023, F026, or F027.
- 4) Automatic Waiver of DRE Trial Burn. Owners and operators of boilers operated under the special operating requirements provided by Section 726.210 are considered to be in compliance with the DRE standard of subsection (a)(1) and are exempt from the DRE trial burn.

- 5) Low risk waste. Owners and operators of BIFs that burn hazardous waste in compliance with the requirements of Section 726.209(a) are considered to be in compliance with the DRE standard of subsection (a)(1) and are exempt from the DRE trial burn.
- b) CO Standard
- 1) Except as provided in subsection (c), the stack gas concentration of CO from a BIF burning hazardous waste cannot exceed 100 ppmv on an hourly rolling average basis (i.e., over any 60 minute period), continuously corrected to seven percent oxygen, dry gas basis.
  - 2) CO and oxygen must be continuously monitored in conformance with “Performance Specifications for Continuous Emission Monitoring of Carbon Monoxide and Oxygen for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste” in Appendix I.
  - 3) Compliance with the 100 ppmv CO limit must be demonstrated during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). To demonstrate compliance, the highest hourly rolling average CO level during any valid run of the trial burn or compliance test must not exceed 100 ppmv.
- c) Alternative CO Standard
- 1) The stack gas concentration of CO from a BIF burning hazardous waste may exceed the 100 ppmv limit provided that stack gas concentrations of HCs do not exceed 20 ppmv, except as provided by subsection (f) for certain industrial furnaces.
  - 2) HC limits must be established under this Section on an hourly rolling average basis (i.e., over any 60 minute period), reported as propane, and continuously corrected to seven percent oxygen, dry gas basis.
  - 3) HC must be continuously monitored in conformance with “Performance Specifications for Continuous Emission Monitoring of Hydrocarbons for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste” in Appendix I. CO and oxygen must be continuously monitored in conformance with subsection (b)(2).
  - 4) The alternative CO standard is established based on CO data during the trial burn (for a new facility) and the compliance test (for an interim status facility). The alternative CO standard is the average over all valid runs of the highest hourly average CO level for each run. The CO limit is implemented on an hourly rolling average basis, and continuously corrected to seven percent oxygen, dry gas basis.

- d) Special Requirements for Furnaces. Owners and operators of industrial furnaces (e.g., kilns, cupolas) that feed hazardous waste for a purpose other than solely as an ingredient (see Section 726.203(a)(5)(B)) at any location other than the end where products are normally discharged and where fuels are normally fired must comply with the HC limits provided by subsection (c) or (f) irrespective of whether stack gas CO concentrations meet the 100 ppmv limit of subsection (b).
- e) Controls for Dioxins and Furans. Owners and operators of BIFs that are equipped with a dry PM control device that operates within the temperature range of 450 °F through 750 °F, and industrial furnaces operating under an alternative HC limit established under subsection (f) must conduct a site-specific risk assessment as follows to demonstrate that emissions of chlorinated dibenzo-p-dioxins and dibenzofurans do not result in an increased lifetime cancer risk to the hypothetical maximum exposed individual (MEI) exceeding  $1 \times 10^{-5}$  (1 in 100,000):
- 1) During the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 0023A (Sampling Method for Polychlorinated Dibenzop-dioxins and Polychlorinated Dibenzofurans Emissions from Stationary Sources) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846 or Method 23 in appendix A-7 to 40 CFR 60, each incorporated by reference in 35 Ill. Adm. Code 720.111(a);
  - 2) Estimate the 2,3,7,8-TCDD toxicity equivalence of the tetra-octa CDDs/CDFs congeners using section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzop-dioxin and Dibenzofuran Congeners) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (see Appendix I). Multiply the emission rates of CDD/CDF congeners with a toxicity equivalence greater than zero (see the procedure) by the calculated toxicity equivalence factor to estimate the equivalent emission rate of 2,3,7,8-TCDD;
  - 3) Conduct dispersion modeling using methods recommended in appendix W to 40 CFR 51 (Guideline on Air Quality Models), in section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), or in “Screening Procedures for Estimating Air Quality Impact of Stationary Sources, Revised,” USEPA publication number EPA-454/R-92-019, each incorporated by reference in 35 Ill. Adm. Code 720.111, to predict the maximum annual average off-site ground level concentration of 2,3,7,8-TCDD equivalents determined under subsection

- (e)(2). The maximum annual average on-site concentration must be used when a person resides on-site; and
- 4) The ratio of the predicted maximum annual average ground level concentration of 2,3,7,8-TCDD equivalents to the risk-specific dose (RSD) for 2,3,7,8-TCDD provided in Appendix E ( $2.2 \times 10^{-7}$ ) must not exceed 1.0.
- f) Monitoring CO and HC in the By-Pass Duct of a Cement Kiln. Cement kilns may comply with the CO and HC limits provided by subsections (b), (c), and (d) by monitoring in the by-pass duct provided that the following conditions are fulfilled:
- 1) Hazardous waste is fired only into the kiln and not at any location downstream from the kiln exit relative to the direction of gas flow; and
  - 2) The by-pass duct diverts a minimum of 10 percent of kiln off-gas into the duct.
- g) Use of Emissions Test Data to Demonstrate Compliance and Establish Operating Limits. Compliance with the requirements of this Section must be demonstrated simultaneously by emissions testing or during separate runs under identical operating conditions. Further, data to demonstrate compliance with the CO and HC limits of this Section or to establish alternative CO or HC limits under this Section must be obtained during the time that DRE testing, and ~~if where applicable~~, CDD/CDF testing under subsection (e) and comprehensive organic emissions testing under subsection (f) is conducted.
- h) Enforcement. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under Section 726.202) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section is “information” justifying modification or revocation and re-issuance of a permit under 35 Ill. Adm. Code 703.270 et seq.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.206 Standards to Control Metals Emissions**

- a) General. The owner or operator must comply with the metals standards provided by subsections (b), (c), (d), (e), or (f) for each metal listed in subsection (b) that is present in the hazardous waste at detectable levels using appropriate analytical methods.

BOARD NOTE: The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the

following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D):

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.
2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

- b) Tier I Feed Rate Screening Limits. Feed rate screening limits for metals are specified in Appendix A as a function of terrain-adjusted effective stack height (TESH) and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subsection (b)(7).
- 1) Noncarcinogenic Metals. The feed rates of the noncarcinogenic metals in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks must not exceed the screening limits specified in Appendix A.
    - A) The feed rate screening limits for antimony, barium, mercury, thallium, and silver are based on either of the following:
      - i) An hourly rolling average, as defined in Sections 726.200(g) and 726.202(e)(6)(A)(ii); or
      - ii) An instantaneous limit not to be exceeded at any time.
    - B) The feed rate screening limit for lead is based on one of the following:
      - i) An hourly rolling average, as defined in Sections 726.200(g) and 726.202(e)(6)(A)(ii);
      - ii) An averaging period of 2 to 24 hours, as defined in Section 726.202(e)(6)(B) with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis; or
      - iii) An instantaneous limit not to be exceeded at any time.

## 2) Carcinogenic Metals

- A) The feed rates of carcinogenic metals in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks must not exceed values derived from the screening limits specified in Appendix A. The feed rate of each of these metals is limited to a level ~~so such~~ that the sum of the ratios of the actual feed rate to the feed rate screening limit specified in Appendix A must not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^n \frac{A_i}{F_i} \leq 1.0$$

Where:

$\Sigma A_i/F_i$  = the sum of the values of A/F for each metal "i", from i = 1 to n

n = number of carcinogenic metals

$A_i$  = the actual feed rate to the device for metal "i"

$F_i$  = the feed rate screening limit provided by Appendix A for metal "i"

- B) The feed rate screening limits for the carcinogenic metals are based on either:
- i) An hourly rolling average; or
  - ii) An averaging period of two to 24 hours, as defined in Section 726.202(e)(6)(B), with an instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed on an hourly rolling average basis.

## 3) TESH (Terrain Adjusted Effective Stack Height)

- A) The TESH is determined according to the following equation:

$$\text{TESH} = H + P - T$$

Where:

H = Actual physical stack height (m)

P = Plume rise (in m) as determined from Appendix F as a function of stack flow rate and stack gas exhaust temperature

T = Terrain rise (in m) within five kilometers of the stack

- B) The stack height (H) must not exceed good engineering practice stack height, as defined in Section 726.200(i).
- C) If the TESH calculated ~~under pursuant to~~ subsection (b)(3)(A) is not listed in Appendices A through C, the values for the nearest lower TESH listed in the table must be used. If the TESH is four meters or less, a value based on four meters must be used.
- 4) Terrain Type. The screening limits are a function of whether the facility is located in noncomplex or complex terrain. A device located where any part of the surrounding terrain within five kilometers of the stack equals or exceeds the elevation of the physical stack height (H) is considered to be in complex terrain and the screening limits for complex terrain apply. Terrain measurements are to be made from U.S. Geological Survey 7.5-minute topographic maps of the area surrounding the facility.
- 5) Land Use. The screening limits are a function of whether the facility is located in an area where the land use is urban or rural. To determine whether land use in the vicinity of the facility is urban or rural, procedures provided in Appendix I or J must be used.
- 6) Multiple Stacks. An owner or operator of a facility with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject to controls of metals emissions under a RCRA permit or interim status controls must comply with the screening limits for ~~its all such~~ units assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics. The stack with the lowest value of K is the worst-case stack. K is determined from the following equation as applied to each stack:

$$K = H \times V \times T$$

Where:

K = a parameter accounting for relative influence of stack height and plume rise

H = physical stack height (meters)

V = stack gas flow rate ( $\text{m}^3/\text{sec}$  (cubic meters per second))

T = exhaust temperature (degrees K)

- 7) Criteria for Facilities Not Eligible for Screening Limits. If any criteria below are met, the Tier I (and Tier II) screening limits do not apply. Owners and operators of these ~~such~~ facilities must comply with either the Tier III standards provided by subsection (d) or with the adjusted Tier I feed rate screening limits provided by subsection (e).
- A) The device is located in a narrow valley less than one kilometer wide;
  - B) The device has a stack taller than 20 meters and is located so ~~such~~ that the terrain rises to the physical height within one kilometer of the facility;
  - C) The device has a stack taller than 20 meters and is located within five kilometers of a shoreline of a large body of water like ~~such as~~ an ocean or large lake; or
  - D) The physical stack height of any stack is less than 2.5 times the height of any building within five building heights or five projected building widths of the stack and the distance from the stack to the closest boundary is within five building heights or five projected building widths of the associated building.
- 8) Implementation. The feed rate of metals in each feedstream must be monitored to ensure that the feed rate screening limits are not exceeded.
- c) Tier II Emission Rate Screening Limits. Emission rate screening limits are specified in Appendix A as a function of TESH and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in subsection (b)(7).
- 1) Noncarcinogenic metals. The emission rates of noncarcinogenic metals must not exceed the screening limits specified in Appendix A.
  - 2) Carcinogenic metals. The emission rates of carcinogenic metals must not exceed values derived from the screening limits specified in Appendix A. The emission rate of each of these metals is limited to a level so ~~such~~ that the sum of the ratios of the actual emission rate to the emission rate screening limit specified in Appendix A must not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^n \frac{A_i}{E_i} \leq 1.0$$

Where:

$\Sigma A_i/E_i$  = the sum of the values of A/E for each metal “i”,  
from i = 1 to n

n = number of carcinogenic metals

$A_i$  = the actual emission rate to the device for metal “i”

$E_i$  = the emission rate screening limit provided by  
Appendix A for metal “i”

- 3) Implementation. The emission rate limits must be implemented by limiting feed rates of the individual metals to levels during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by subsections (b)(1)(A), (b)(1)(B), and (b)(2)(B). The feed rate of metals in each feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified under Sections 726.202 or 726.203 are not exceeded.
- 4) Definitions and limitations. The definitions and limitations provided by subsection (b) and Section 726.200(g) for the following terms also apply to the Tier II emission rate screening limits provided by this subsection (c): TESH, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.
- 5) Multiple Stacks
  - A) An owner or operator of a facility with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject to controls on metals emissions under a RCRA permit or interim status controls must comply with the emissions screening limits for ~~these any such~~ stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.
  - B) The worst-case stack is determined by procedures provided in subsection (b)(6).
  - C) For each metal, the total emissions of the metal from those stacks must not exceed the screening limit for the worst-case stack.

- d) Tier III site-specific risk assessment. The requirements of this subsection (d) apply to facilities complying with either the Tier III or Adjusted Tier I except if ~~where~~-specified otherwise.
- 1) General. Conformance with the Tier III metals controls must be demonstrated by emissions testing to determine the emission rate for each metal. In addition, conformance with either Tier III or Adjusted Tier I metals controls must be demonstrated by air dispersion modeling to predict the maximum annual average off-site ground level concentration for each metal and a demonstration that acceptable ambient levels are not exceeded.
  - 2) Acceptable Ambient Levels. Appendices D and E list the acceptable ambient levels for purposes of this Subpart H. Reference air concentrations (RACs) are listed for the noncarcinogenic metals and  $1 \times 10^{-5}$  RSDs are listed for the carcinogenic metals. The RSD for a metal is the acceptable ambient level for that metal provided that only one of the four carcinogenic metals is emitted. If more than one carcinogenic metal is emitted, the acceptable ambient level for the carcinogenic metals is a fraction of the RSD, as described in subsection (d)(3).
  - 3) Carcinogenic Metals. For the carcinogenic metals the sum of the ratios of the predicted maximum annual average off-site ground level concentrations (except that on-site concentrations must be considered if a person resides on site) to the RSD for all carcinogenic metals emitted must not exceed 1.0 as determined by the following equation:

$$\sum_{i=1}^n \frac{P_i}{R_i} \leq 1.0$$

Where:

$\sum P_i/R_i$  = the sum of the values of P/R for each metal "i", from  
i = 1 to n

n = number of carcinogenic metals

$P_i$  = the predicted ambient concentration for metal i

$R_i$  = the RSD for metal i

- 4) Noncarcinogenic Metals. For the noncarcinogenic metals, the predicted maximum annual average off-site ground level concentration for each metal must not exceed the RAC.

- 5) Multiple Stacks. Owners and operators of facilities with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject to controls on metals emissions under a RCRA permit or interim status controls must conduct emissions testing (except that facilities complying with Adjusted Tier I controls need not conduct emissions testing) and dispersion modeling to demonstrate that the aggregate emissions from all ~~such~~ on-site stacks do not result in an exceedance of the acceptable ambient levels.
  - 6) Implementation. Under Tier III, the metals controls must be implemented by limiting feed rates of the individual metals to levels during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate averaging periods are the same as provided by subsections (b)(1)(A), (b)(1)(B), and (b)(2)(B). The feed rate of metals in each feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified under Sections 726.202 or 726.203 are not exceeded.
- e) Adjusted Tier I Feed Rate Screening Limits. The owner or operator may adjust the feed rate screening limits provided by Appendix A to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit for a metal is determined by back-calculating from the acceptable ambient levels provided by Appendices D and E using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit. The feed rate screening limits for carcinogenic metals are implemented as prescribed in subsection (b)(2).
- f) Alternative Implementation Approaches
- 1) ~~Pursuant to~~ subsection (f)(2) the Agency must approve on a case-by-case basis approaches to implement the Tier II or Tier III metals emission limits provided by subsection (c) or (d) alternative to monitoring the feed rate of metals in each feedstream.
  - 2) The emission limits provided by subsection (d) must be determined as follows:
    - A) For each noncarcinogenic metal, by back-calculating from the RAC provided in Appendix D to determine the allowable emission rate for each metal using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with subsection (h); and
    - B) For each carcinogenic metal by the following methods:

- i) By back-calculating from the RSD provided in Appendix E to determine the allowable emission rate for each metal if that metal were the only carcinogenic metal emitted using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with subsection (h); and
  - ii) If more than one carcinogenic metal is emitted, by selecting an emission limit for each carcinogenic metal not to exceed the emission rate determined by subsection (f)(2)(B)(i), so ~~such~~ that the sum for all carcinogenic metals of the ratios of the selected emission limit to the emission rate determined by that subsection does not exceed 1.0.
- g) Emission Testing1) General. Emission testing for metals must be conducted using Method 0060 (Determinations of Metals in Stack Emissions) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).
- 2) Hexavalent Chromium. Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in Method 0061 (Determination of Hexavalent Chromium Emissions from Stationary Sources) in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).
- h) Dispersion Modeling. Dispersion modeling required under this Section must be conducted according to methods recommended in federal appendix W to 40 CFR 51 (Guideline on Air Quality Models), in section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure) in appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), or in “Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised”, USEPA publication number EPA-454/R-92-019, each incorporated by reference in 35 Ill. Adm. Code 720.111(b), to predict the maximum annual average off-site ground level concentration. However, on-site concentrations must be considered when a person resides on-site.
- i) Enforcement. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under Section 726.202) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section is “information” justifying modification or

revocation and re-issuance of a permit under 35 Ill. Adm. Code 703.270 through 703.273.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.207 Standards to Control HCl and Chlorine Gas Emissions**

- a) General. The owner or operator must comply with the HCl and chlorine gas controls provided by subsection (b), (c), or (e).
- b) Screening Limits
  - 1) Tier I Feed Rate Screening Limits. Feed rate screening limits are specified for total chlorine in Appendix B as a function of TESH and terrain and land use in the vicinity of the facility. The feed rate of total chlorine and chloride, both organic and inorganic, in all feed streams, including hazardous waste, fuels, and industrial furnace feed stocks must not exceed the levels specified.
  - 2) Tier II Emission Rate Screening Limits. Emission rate screening limits for HCl and chlorine gas are specified in Appendix C as a function of TESH and terrain and land use in the vicinity of the facility. The stack emission rates of HCl and chlorine gas must not exceed the levels specified.
  - 3) Definitions and Limitations. The definitions and limitations provided by Sections 726.200(i) and 726.206(b) for the following terms also apply to the screening limits provided by this subsection: TESH, good engineering practice stack height, terrain type, land use, and criteria for facilities not eligible to use the screening limits.
  - 4) Multiple Stacks. Owners and operators of facilities with more than one on-site stack from a BIF, incinerator or other thermal treatment unit subject to controls on HCl or chlorine gas emissions under a RCRA permit or interim status controls must comply with the Tier I and Tier II screening limits for those stacks assuming all hazardous waste is fed into the device with the worst-case stack based on dispersion characteristics.
    - A) The worst-case stack is determined by procedures provided in Section 726.206(b)(6).
    - B) Under Tier I, the total feed rate of chlorine and chloride to all subject devices must not exceed the screening limit for the worst-case stack.
    - C) Under Tier II, the total emissions of HCl and chlorine gas from all subject stacks must not exceed the screening limit for the worst-case stack.

- c) Tier III Site-Specific Risk Assessments
- 1) General. Conformance with the Tier III controls must be demonstrated by emissions testing to determine the emission rate for HCl and chlorine gas, air dispersion modeling to predict the maximum annual average off-site ground level concentration for each compound, and a demonstration that acceptable ambient levels are not exceeded.
  - 2) Acceptable Ambient Levels. Appendix D lists the RACs for HCl ( $7 \mu\text{g}/\text{m}^3$ ) and chlorine gas ( $0.4 \mu\text{g}/\text{m}^3$ ).
  - 3) Multiple Stacks. Owners and operators of facilities with more than one on-site stack from a BIF, incinerator, or other thermal treatment unit subject to controls on HCl or chlorine gas emissions under a RCRA permit or interim status controls must conduct emissions testing and dispersion modeling to demonstrate that the aggregate emissions from all such on-site stacks do not result in an exceedance of the acceptable ambient levels for HCl and chlorine gas.
- d) Averaging Periods. The HCl and chlorine gas controls are implemented by limiting the feed rate of total chlorine and chloride in all feedstreams, including hazardous waste, fuels, and industrial furnace feed stocks. Under Tier I, the feed rate of total chlorine and chloride is limited to the Tier I Screening Limits. Under Tier II and Tier III, the feed rate of total chlorine and chloride is limited to the feed rates during the trial burn (for new facilities or an interim status facility applying for a permit) or the compliance test (for interim status facilities). The feed rate limits are based on either of the following:
- 1) An hourly rolling average, as defined in Sections 726.200(i) and 726.202(e)(6); or
  - 2) An instantaneous basis not to be exceeded at any time.
- e) Adjusted Tier I Feed Rate Screening Limits. The owner or operator may adjust the feed rate screening limit provided by Appendix B to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit is determined by back-calculating from the acceptable ambient level for chlorine gas provided by Appendix D using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit.
- f) Emissions Testing. Emissions testing for HCl and chlorine gas ( $\text{Cl}_2$ ) must be conducted using the procedures described in Method 0050 or 0051, in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA publication number EPA-530/SW-846, incorporated by reference in 35 Ill. Adm. Code 720.111(a).

- g) Dispersion Modeling. Dispersion modeling must be conducted according to the provisions of Section 726.206(h).
- h) Enforcement. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit (under Section 726.202) will be regarded as compliance with this Section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of this Section is “information” justifying modification or revocation and re-issuance of a permit under 35 Ill. Adm. Code 703.270 through 703.273.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.208 Small Quantity On-Site Burner Exemption**

- a) Exempt Quantities. An owner or operator of a facility that burns hazardous waste in an on-site BIF is exempt from the requirements of this Subpart H provided that the following conditions are fulfilled:
  - 1) The quantity of hazardous waste burned in a device for a calendar month does not exceed the limits provided in Table A based on the TESH, as defined in Sections 726.200(i) and 726.206(b)(3).
  - 2) The maximum hazardous waste firing rate does not exceed at any time one percent of the total fuel requirements for the device (hazardous waste plus other fuel) on a total heat input or mass input basis, whichever results in the lower mass feed rate of hazardous waste;
  - 3) The hazardous waste has a minimum heating value of 5,000 Btu/lb, as generated; and
  - 4) The hazardous waste fuel does not contain (and is not derived from) USEPA hazardous waste numbers F020, F021, F022, F023, F026, or F027.
- b) Mixing with Non-Hazardous Fuels. If hazardous waste fuel is mixed with a non-hazardous fuel, the quantity of hazardous waste before such mixing is used to comply with subsection (a).
- c) Multiple Stacks. If an owner or operator burns hazardous waste in more than one on-site BIF exempt ~~under pursuant to~~ this Section, the quantity limits provided by subsection (a)(1), are implemented according to the following equation:

$$\sum_{i=1}^n \frac{C_i}{L_i} \leq 1.0$$

Where:

$\Sigma (C_i/L_i) =$  the sum of the values of X for each stack i, from i = 1 to n

n = the number of stacks

$C_i =$  Actual Quantity Burned means the waste quantity burned per month in device “i”

$L_i =$  Allowable Quantity Burned means the maximum allowable exempt quantity for stack “i” from Table A

BOARD NOTE: Hazardous wastes that are subject to the special requirements for VSQGs ~~under pursuant to~~ 35 Ill. Adm. Code 722.114 may be burned in an off-site device ~~under pursuant to~~ the exemption provided by Section 726.208, but must be included in the quantity determination for the exemption.

- d) Notification Requirements. The owner or operator of facilities qualifying for the small quantity burner exemption ~~under pursuant to~~ this Section must provide a one-time signed, written notice to the Agency indicating the following:
- 1) The combustion unit is operating as a small quantity burner of hazardous waste;
  - 2) The owner and operator are in compliance with the requirements of this Section; and
  - 3) The maximum quantity of hazardous waste that the facility is allowed to burn per month, as provided by Section 726.208(a)(1).
- e) Recordkeeping Requirements. The owner or operator must maintain at the facility for at least three years sufficient records documenting compliance with the hazardous waste quantity, firing rate and heating value limits of this Section. At a minimum, these records must indicate the quantity of hazardous waste and other fuel burned in each unit per calendar month and the heating value of the hazardous waste.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.209 Low Risk Waste Exemption**

- a) Waiver of DRE Standard. The DRE standard of Section 726.204(a) does not apply if the BIF is operated in conformance with subsection (a)(1), and the owner or operator demonstrates by procedures prescribed in subsection (a)(2), that the burning will not result in unacceptable adverse health effects.
- 1) The device must be operated as follows:

- A) A minimum of 50 percent of fuel fired to the device must be fossil fuel, fuels derived from fossil fuel, tall oil, or, if approved by the Agency on a case-by-case basis, other nonhazardous fuel with combustion characteristics comparable to fossil fuel. ~~These Such~~ fuels are termed “primary fuel” for purposes of this Section. (Tall oil is a fuel derived from vegetable and rosin fatty acids.) The 50 percent primary fuel firing rate must be determined on a total heat or mass input basis, whichever results in the greater mass feed rate of primary fuel fired;
  - B) Primary fuels and hazardous waste fuels must have a minimum as-fired heating value of 8,000 Btu/lb;
  - C) The hazardous waste is fired directly into the primary fuel flame zone of the combustion chamber; and
  - D) The device operates in conformance with the CO controls provided by Section 726.204(b)(1). Devices subject to the exemption provided by this Section are not eligible for the alternative CO controls provided by Section 726.204(c).
- 2) Procedures to demonstrate that the hazardous waste burning will not pose unacceptable adverse public health effects are as follows:
- A) Identify and quantify those nonmetal compounds listed in Appendix H of 35 Ill. Adm. Code 721, that could reasonably be expected to be present in the hazardous waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained;
  - B) Calculate reasonable, worst case emission rates for each constituent identified in subsection (a)(2)(A), by assuming the device achieves 99.9 percent destruction and removal efficiency. That is, assume that 0.1 percent of the mass weight of each constituent fed to the device is emitted.
  - C) For each constituent identified in subsection (a)(2)(A), use emissions dispersion modeling to predict the maximum annual average ground level concentration of the constituent.
    - i) Dispersion modeling must be conducted using methods specified in Section 726.206(h).
    - ii) An owner or operator of a facility with more than one on-site stack from a BIF that is exempt under this Section must conduct dispersion modeling of emissions from all stacks

exempt under this Section to predict ambient levels prescribed by this subsection (a)(2).

- D) Ground level concentrations of constituents predicted under subsection (a)(2)(C), must not exceed the following levels:
- i) For the noncarcinogenic compounds listed in Appendix D, the levels established in Appendix D.
  - ii) For the carcinogenic compounds listed in Appendix E:

$$\sum_{i=1}^n \frac{A_i}{L_i} \leq 1.0$$

Where:

$\Sigma (A_i/L_i)$  = the sum of the values of X for each carcinogen i, from i = 1 to n

n means the number of carcinogenic compounds

$A_i$  = Actual ground level concentration of carcinogen "i"

$L_i$  = Level established in Appendix E for carcinogen "i"

- iii) For constituents not listed in Appendix D or E,  $0.1 \mu\text{g}/\text{m}^3$ .
- b) Waiver of Particulate Matter Standard. The PM standard of Section 726.205 does not apply if the following occur:
- 1) The DRE standard is waived under subsection (a); and
  - 2) The owner or operator complies with the Tier I, or adjusted Tier I, metals feed rate screening limits provided by Section 726.206(b) or (e).

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.210 Waiver of DRE Trial Burn for Boilers**

Boilers that operate under the special requirements of this Section, and that do not burn hazardous waste containing (or derived from) USEPA hazardous waste numbers F020, F021, F022, F023, F026, or F027, are considered to be in conformance with the DRE standard of Section 726.204(a), and a trial burn to demonstrate DRE is waived. When burning hazardous waste:

- a) A minimum of 50 percent of fuel fired to the devices must be fossil fuel, fuels derived from fossil fuel, tall oil, or, if approved by the Agency on a case-by-case basis, other nonhazardous fuel with combustion characteristics comparable to fossil fuel. ~~These Such~~ fuels are termed “primary fuel” for purposes of this Section. (Tall oil is a fuel derived from vegetable and rosin fatty acids.) The 50 percent primary fuel firing rate must be determined on a total heat or mass input basis, whichever results in the greater mass feed rate of primary fuel fired;
- b) Boiler load must not be less than 40 percent. Boiler load is the ratio at any time of the total heat input to the maximum design heat input;
- c) Primary fuels and hazardous waste fuels must have a minimum as-fired heating value of 8,000 Btu/lb, and each material fired in a burner where hazardous waste is fired must have a heating value of at least 8,000 Btu/lb, as fired;
- d) The device must operate in conformance with the CO standard provided by Section 726.204(b)(1). Boilers subject to the waiver of the DRE trial burn provided by this Section are not eligible for the alternative CO standard provided by Section 726.204(c);
- e) The boiler must be a water tube type boiler that does not feed fuel using a stoker or stoker type mechanism; and
- f) The hazardous waste must be fired directly into the primary fuel flame zone of the combustion chamber with an air or steam atomization firing system, mechanical atomization system or a rotary cup atomization system under the following conditions:
  - 1) Viscosity. The viscosity of the hazardous waste fuel as fired must not exceed 300 SSU;
  - 2) Particle size. When a high pressure air or steam atomizer, low pressure atomizer or mechanical atomizer is used, 70 percent of the hazardous waste fuel must pass through a 200 mesh (74 micron) screen, and when a rotary cup atomizer is used, 70 percent of the hazardous waste must pass through a 100 mesh (150 micron) screen;
  - 3) Mechanical atomization systems. Fuel pressure within a mechanical atomization system and fuel flow rate must be maintained within the design range taking into account the viscosity and volatility of the fuel;
  - 4) Rotary cup atomization systems. Fuel flow rate through a rotary cup atomization system must be maintained within the design range taking into account the viscosity and volatility of the fuel.

(Source: Amended at 27 Ill. Reg. 12916, effective July 17, 2003)

**Section 726.211 Standards for Direct Transfer**

- a) **Applicability.** The regulations in this Section apply to owners and operators of BIFs subject to Section 726.202 or 726.203 if hazardous waste is directly transferred from a transport vehicle to a BIF without the use of a storage unit.
- b) **Definitions**
  - 1) When used in this Section, terms have the following meanings:

“Direct transfer equipment” means any device (including ~~but not limited to, such devices~~ like as piping, fittings, flanges, valves and pumps) that is used to distribute, meter or control the flow of hazardous waste between a container (i.e., transport vehicle) and a BIF.

“Container” means any portable device in which hazardous waste is transported, stored, treated, or otherwise handled, and includes transport vehicles that are containers themselves (e.g., tank trucks, tanker-trailers, and rail tank cars) and containers placed on or in a transport vehicle.
  - 2) This Section references several requirements provided in Subparts I and J of 35 Ill. Adm. Code 724 and Subparts I and J of 35 Ill. Adm. Code 725. For purposes of this Section, the term “tank systems” in those referenced requirements means direct transfer equipment, as defined in subsection (b)(1).
- c) **General Operating Requirements**
  - 1) No direct transfer of a pumpable hazardous waste must be conducted from an open-top container to a BIF.
  - 2) Direct transfer equipment used for pumpable hazardous waste must always be closed, except when necessary to add or remove the waste, and must not be opened, handled, or stored in a manner that could cause any rupture or leak.
  - 3) The direct transfer of hazardous waste to a BIF must be conducted so that it does not do any of the following:
    - A) Generate extreme heat or pressure, fire, explosion, or violent reaction;
    - B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

- C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;
  - D) Damage the structural integrity of the container or direct transfer equipment containing the waste;
  - E) Adversely affect the capability of the BIF to meet the standards provided by Sections 726.204 through 726.207; or
  - F) Threaten human health or the environment.
- 4) Hazardous waste must not be placed in direct transfer equipment, if it could cause the equipment or its secondary containment system to rupture, leak, corrode, or otherwise fail.
- 5) The owner or operator of the facility must use appropriate controls and practices to prevent spills and overflows from the direct transfer equipment or its secondary containment systems. These include the following at a minimum:
- A) Spill prevention controls (e.g., check valves, dry discount couplings, etc.); and
  - B) Automatic waste feed cutoff to use if a leak or spill occurs from the direct transfer equipment.
- d) Areas Where Direct Transfer Vehicles (Containers) Are Located. Applying the definition of container ~~under pursuant to~~ this Section, owners and operators must comply with the following requirements:
- 1) The containment requirements of 35 Ill. Adm. Code 724.275;
  - 2) The use and management requirements of Subpart I of 35 Ill. Adm. Code 725, except for Sections 725.270 and 725.274, and except that in lieu of the special requirements of 35 Ill. Adm. Code 725.276 for ignitable or reactive waste, the owner or operator may comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjacent property line that can be built upon, as required in Tables 2-1 through 2-6 of “Flammable and Combustible Liquids Code,” NFPA 30, incorporated by reference in 35 Ill. Adm. Code 720.111(a). The owner or operator must obtain and keep on file at the facility a written certification by the local Fire Marshal that the installation meets the subject NFPA Codes; and
  - 3) The closure requirements of 35 Ill. Adm. Code 724.278.

- e) Direct Transfer Equipment. Direct transfer equipment must meet the following requirements:
- 1) Secondary Containment. For existing direct transfer equipment, an owner or operator must comply with the secondary containment requirements of 35 Ill. Adm. Code 725.293, except for Sections 725.293(a), (d), (e), and (i). For all new and direct transfer equipment, an owner or operator must comply with these secondary containment requirements prior to their being put into service;
  - 2) Requirements Prior to Meeting Secondary Containment Requirements
    - A) For existing direct transfer equipment that does not have secondary containment, the owner or operator must determine whether the equipment is leaking or is unfit for use. The owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by a qualified, registered professional engineer in accordance with 35 Ill. Adm. Code 703.126(d) that attests to the equipment's integrity.
    - B) This assessment must determine whether the direct transfer equipment is adequately designed and has sufficient structural strength and compatibility with the wastes to be transferred to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:
      - i) Design standards, if available, according to which the direct transfer equipment was constructed;
      - ii) Hazardous characteristics of the wastes that have been or will be handled;
      - iii) Existing corrosion protection measures;
      - iv) Documented age of the equipment, if available, (otherwise, an estimate of the age); and
      - v) Results of a leak test or other integrity examination so such that the effects of temperature variations, vapor pockets, cracks, leaks, corrosion and erosion are accounted for.
    - C) If, as a result of the assessment specified above, the direct transfer equipment is found to be leaking or unfit for use, the owner or operator must comply with the requirements of 35 Ill. Adm. Code 725.296(a) and (b).

- 3) Inspections and Recordkeeping
  - A) The owner or operator must inspect at least once each operating hour when hazardous waste is being transferred from the transport vehicle (container) to the BIF:
    - i) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;
    - ii) The above ground portions of the direct transfer equipment to detect corrosion, erosion, or releases of waste (e.g., wet spots, dead vegetation, etc.); and
    - iii) Data gathered from monitoring equipment and leak-detection equipment, (e.g., pressure and temperature gauges) to ensure that the direct transfer equipment is being operated according to its design.
  - B) The owner or operator must inspect cathodic protection systems, if used, to ensure that they are functioning properly according to the schedule provided by 35 Ill. Adm. Code 725.295(b).
  - C) Records of inspections made ~~under pursuant to~~ this subsection (e)(3) must be maintained in the operating record at the facility, and available for inspection for at least three years from the date of the inspection.
- 4) Design and Installation of New Ancillary Equipment. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.292.
- 5) Response to Leaks or Spills. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.296.
- 6) Closure. Owners and operators must comply with the requirements of 35 Ill. Adm. Code 725.297, except for 35 Ill. Adm. Code 725.297(c)(2) through (c)(4).

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.212 Regulation of Residues**

A residue derived from the burning or processing of hazardous waste in a BIF is not excluded from the definition of a hazardous waste under 35 Ill. Adm. Code 721.104(b)(4), (b)(7), or (b)(8), unless the device and the owner or operator meet the following requirements:

- a) The device meets the following criteria:
- 1) Boilers. Boilers must burn at least 50 percent coal on a total heat input or mass basis, whichever results in the greater mass feed rate of coal;
  - 2) Ore or Mineral Furnaces. Industrial furnaces subject to 35 Ill. Adm. Code 721.104(b)(7) must process at least 50 percent by weight of normal, nonhazardous raw materials;
  - 3) Cement Kilns. Cement kilns must process at least 50 percent by weight of normal cement-production raw materials;
- b) The owner or operator demonstrates that the hazardous waste does not significantly affect the residue by demonstrating conformance with either of the following criteria:
- 1) Comparison of Waste-Derived Residue with Normal Residue. The waste-derived residue must not contain constituents listed in Appendix H of 35 Ill. Adm. Code 721 (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in Appendix H to 35 Ill. Adm. Code 721 that may be PICs. For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2,3,7,8-TCDD equivalent values using the procedure specified in section 4.0 of the documents referenced in Appendix I.
    - A) Normal Residue. Concentrations of toxic constituents of concern in normal residue must be determined based on analyses of a minimum of 10 samples representing a minimum of 10 days of operation. Composite samples may be used to develop a sample for analysis provided that the compositing period does not exceed 24 hours. The upper tolerance limit (at 95 percent confidence with a 95 percent proportion of the sample distribution) of the concentration in the normal residue must be considered the statistically-derived concentration in the normal residue. If changes in raw materials or fuels reduce the statistically-derived concentrations of the toxic constituents of concern in the normal residue, the statistically-derived concentrations must be revised or statistically-derived concentrations of toxic constituents in normal residue must be established for a new mode of operation with the new raw material or fuel. To determine

the upper tolerance limit in the normal residue, the owner or operator must use statistical procedures prescribed in section 7.0 (Statistical Methodology for Bevill Residue Determinations) in federal appendix IX to 40 CFR 266 (Methods Manual for Compliance with the BIF Regulations), USEPA publication number EPA-454/R-92-019, incorporated by reference in 35 Ill. Adm. Code 720.111(b) (see Appendix I).

- B) Waste-Derived Residue. Waste derived residue must be sampled and analyzed as often as necessary to determine whether the residue generated during each 24-hour period has concentrations of toxic constituents that are higher than the concentrations established for the normal residue under subsection (b)(1)(A). If so, hazardous waste burning has significantly affected the residue and the residue is not excluded from the definition of “hazardous waste”. Concentrations of toxic constituents in waste-derived residue must be determined based on analysis of one or more samples obtained over a 24-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed 24 hours. If more than one sample is analyzed to characterize waste-derived residues generated over a 24-hour period, the concentration of each toxic constituent must be the arithmetic mean of the concentrations in the samples. No results can be disregarded; or

2) Comparison of Waste-Derived Residue Concentrations with Health-Based Limits

- A) Nonmetal Constituents. The concentration of each nonmetal toxic constituent of concern (specified in subsection (b)(1)) in the waste-derived residue must not exceed the health-based level specified in Appendix G, or the level of detection, whichever is higher. If a health-based limit for a constituent of concern is not listed in Appendix G, then a limit of 0.002 µg/kg or the level of detection (using appropriate analytical methods), whichever is higher, must be used. The levels specified in Appendix G (and the default level of 0.002 µg/kg or the level of detection for constituents, as identified in Note 1 of Appendix G) are administratively stayed under the condition, for those constituents specified in subsection (b)(1), that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in 35 Ill. Adm. Code 728.143 and Table T of 35 Ill. Adm. Code 728 for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of the best good-faith efforts, as defined by

applicable USEPA guidance and standards, the owner or operator is deemed to be in compliance for that constituent. Until USEPA develops new guidance or standards, the owner or operator may demonstrate ~~these such~~ good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above (ten times) the level provided by 35 Ill. Adm. Code 728.143 and Table T of 35 Ill. Adm. Code 728 for F039 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans;

BOARD NOTE: In a note to corresponding 40 CFR 266.112(b)(2)(i), USEPA stated as follows:

The administrative stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in 35 Ill. Adm. Code 728.143 for F039 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations.

Under section 3006(b) and (g) of RCRA, 42 USC 6926(b) and (g), federal amendments do not go into effect in Illinois until the State of Illinois incorporates them into the State program. This applies unless the authority under which USEPA adopted the amendments is the Hazardous and Solid Waste Amendments of 1984 (HSWA), in which case the federal amendments become effective in Illinois on their federal effective date.

The federal regulations do not themselves define the phrase “appropriate analytical methods,” but USEPA did include a definition in its preamble discussion accompanying the rule. The Board directs attention to the following segment (at 70 Fed. Reg. 34538, 34541 (June 14, 2005)) for the purposes of subsections (b)(1)(C) and (b)(1)(D):

[T]wo primary considerations in selecting an appropriate method, which together serve as our general definition of an appropriate method [are the following] . . . :

1. Appropriate methods are reliable and accepted as such in the scientific community.

2. Appropriate methods generate effective data.

USEPA went on to further elaborate these two concepts and to specify other documents that might provide guidance.

- B) Metal Constituents. The concentration of metals in an extract obtained using the TCLP test must not exceed the levels specified in Appendix G;
  - C) Sampling and Analysis. Wastewater-derived residue must be sampled and analyzed as often as necessary to determine whether the residue generated during each 24-hour period has concentrations of toxic constituents that are higher than the health-based levels. Concentrations of concern in the wastewater-derived residue must be determined based on analysis of one or more samples obtained over a 24-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite for analysis provided that the sampling period does not exceed 24 hours. If more than one sample is analyzed to characterize waste-derived residues generated over a 24-hour period, the concentration of each toxic constituent is the arithmetic mean of the concentrations of the samples. No results can be disregarded; and
- c) Records sufficient to document compliance with the provisions of this Section must be retained until closure of the BIF unit. At a minimum, the following must be recorded:
- 1) Levels of constituents in Appendix H of 35 Ill. Adm. Code 721 that are present in waste-derived residues;
  - 2) If the waste-derived residue is compared with normal residue under subsection (b)(1):
    - A) The levels of constituents in Appendix H to 35 Ill. Adm. Code 721 that are present in normal residues; and
    - B) Data and information, including analyses of samples as necessary, obtained to determine if changes in raw materials or fuels would reduce the concentration of toxic constituents of concern in the normal residue.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.219 Extensions of Time**

The owner or operator may request a case-by-case extension of time to extend any time limit provided by Section 726.203(c). The operator must file a petition for a RCRA variance under pursuant to 35 Ill. Adm. Code 104. The Board will grant the variance if compliance with the time limit is not practicable for reasons beyond the control of the owner or operator.

- a) In granting an extension, the Board will apply conditions as the facts warrant to ensure timely compliance with the requirements of Section 726.203 and that the facility operates in a manner that does not pose a hazard to human health and the environment;
- b) When an owner and operator requests an extension of time to enable the facility to comply with the alternative hydrocarbon provisions of Section 726.204(f) and obtain a RCRA permit because the facility cannot meet the HC limit of Section 726.204(c):
  - 1) The Board will do the following, in considering whether to grant the extension:
    - A) Determine whether the owner and operator have submitted in a timely manner a complete Part B permit application that includes information required under 35 Ill. Adm. Code 703.208(b); and
    - B) Consider whether the owner and operator have made a good faith effort to certify compliance with all other emission controls, including the controls on dioxins and furans of Section 726.204(e) and the controls on PM, metals and HCl/chlorine gas.
  - 2) If an extension is granted, the Board will, as a condition of the extension, require the facility to operate under flue gas concentration limits on CO and HC that, based on available information, including information in the Part B permit application, are baseline CO and HC levels as defined by Section 726.204(f)(1).

BOARD NOTE: Derived from 40 CFR 266.103(c)(7)(ii) (2017).

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **SUBPART M: MILITARY MUNITIONS**

#### **Section 726.301 Definitions**

In addition to the definitions in 35 Ill. Adm. Code 720.110, the following definitions apply to this Subpart M:

“Active range” means a military range that is currently in service and is being regularly used for range activities.

“Chemical agents” and “chemical munitions” are defined as in the Department of Defense Authorization Act of 1986, 50 USC 1521(j)(1), incorporated by reference in 35 Ill. Adm. Code 720.111.

“Director” is as defined in 35 Ill. Adm. Code 702.110.

“Explosives or munitions emergency response specialist” is as defined in 35 Ill. Adm. Code 720.110.

“Explosives or munitions emergency” is as defined in 35 Ill. Adm. Code 720.110.

“Explosives or munitions emergency response” is as defined in 35 Ill. Adm. Code 720.110.

“Inactive range” means a military range that is not currently being used but that ~~which~~ is still under military control and considered by the military to be a potential range area and that ~~which~~ has not been put to a new use that is incompatible with range activities.

“Military” means the United States (U.S.) Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE) or other parties under contract or acting as an agent for the foregoing who handle military munitions.

“Military munitions” is as defined in 35 Ill. Adm. Code 720.110.

“Military range” means designated land and water areas that are set aside; managed; and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems or areas that are set aside, managed, and used to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

“Unexploded ordnance” or “UXO” means military munitions that have been primed, fused, armed, or otherwise prepared for action and that have been fired, dropped, launched, projected, or placed in ~~such~~ a manner that constitutes as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

(Source: Amended at 27 Ill. Reg. 12916, effective July 17, 2003)

**Section 726.302 Definition of Solid Waste**

- a) A military munition is not a solid waste when any of the following situations describes the munition:
- 1) It is used for its intended purpose, including any of the following uses:
    - A) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions);
    - B) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or
    - C) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, “use for intended purpose” does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.
  - 2) It is an unused munition, or component thereof, it is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless ~~the such~~ activities involve use constituting disposal, as defined in 35 Ill. Adm. Code 721.102(c)(1), or it is burned for energy recovery, as defined in 35 Ill. Adm. Code 721.102(c)(2).
- b) An unused military munition is a solid waste when any of the following occurs:
- 1) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in subsection (a)), incinerated, or treated prior to disposal;
  - 2) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, incinerated, or treated prior to disposal;
  - 3) The munition is deteriorated or damaged (e.g., the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or
  - 4) The munition has been declared a solid waste by an authorized military official.

- c) A used or fired military munition is a solid waste when either of the following occurs with regard to the munition:
- 1) The munition is transported off-range or from the site of use (~~if where the~~ site of use is not a range) for the purpose of storage, reclamation, treatment, disposal, or treatment prior to disposal; or
  - 2) The munition is recovered, collected, and then disposed of by burial or landfilling either on or off a range.
- d) For purposes of RCRA section 1004(27) (42 USC 6903(27)), a used or fired military munition is a solid waste, and, therefore, is potentially subject to RCRA corrective action authorities under sections 3004(u) and (v) (42 USC 6924(u) and (v)), and 3008(h) (42 USC 6928(h)) or to imminent and substantial endangerment authorities under section 7003 (42 USC 6963) if the munition lands off-range and is not promptly rendered safe or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.303 Standards Applicable to the Transportation of Solid Waste Military Munitions**

- a) Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Transportation
- 1) Waste military munitions that are being transported and ~~that which~~ exhibit a hazardous waste characteristic or ~~that which~~ are listed as hazardous waste ~~under pursuant to~~ 35 Ill. Adm. Code 721 are subject to regulation ~~under pursuant to~~ 35 Ill. Adm. Code 702, 703, 705, 720 through 728, and 738, unless the munitions meet all the following conditions:
    - A) The waste military munitions are not chemical agents or chemical munitions;
    - B) The waste military munitions are transported in accordance with the Department of Defense shipping controls applicable to the transport of military munitions;
    - C) The waste military munitions are transported from a military-owned or -operated installation to a military-owned or -operated treatment, storage, or disposal facility; and

- D) The transporter of the waste must provide oral notice to the Agency within 24 hours from the time when either the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) occurs that may endanger human health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time when the transporter becomes aware of any loss or theft of the waste military munitions or when any failure to meet a condition of subsection (a)(1) occurs.
- 2) If any waste military munitions shipped ~~under pursuant to~~ subsection (a)(1) are not received by the receiving facility within 45 days after the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Agency within five days.
  - 3) The conditional exemption from regulation as hazardous waste in subsection (a)(1) must apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to storage, treatment, or disposal.
  - 4) The conditional exemption in subsection (a)(1) applies only so long as ~~all~~ ~~of~~ the conditions in subsection (a)(1) are met.
- b) Reinstatement of Conditional Exemption
- 1) If any waste military munition loses its conditional exemption ~~under pursuant to~~ subsection (a)(1), the transporter may file with the Agency an application for reinstatement of the conditional exemption from hazardous waste transportation regulation with respect to ~~the such~~ munition as soon as the munition is returned to compliance with the conditions of subsection (a)(1).
  - 2) If the Agency finds that reinstatement of the conditional exemption is appropriate, it must reinstate the conditional exemption of subsection (a)(1) in writing. The Agency's decision to reinstate or not to reinstate the conditional exemption must be based on the nature of the risks to human health and the environment posed by the waste and either the transporter's provision of a satisfactory explanation of the circumstances of the violation or any demonstration 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. In reinstating the conditional exemption ~~under pursuant to~~ subsection (a)(1), the Agency may specify additional conditions as are necessary to ensure and document proper transportation to adequately

protect human health and the environment. If the Agency does not take action on the reinstatement application within 60 days after receipt of the application, then reinstatement must be deemed granted, retroactive to the date of the application.

- 3) The Agency may terminate a conditional exemption reinstated by default ~~under pursuant to~~ subsection (b)(2) in writing if it finds that reinstatement is inappropriate based on its consideration of the factors set forth in subsection (b)(2). If the Agency terminates a reinstated exemption, it must transmit to the applicant specific, detailed statements in writing as to the reasons it terminated the reinstated exemption.
  - 4) The applicant ~~under pursuant to~~ this subsection (b) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board ~~under pursuant to~~ Section 40 of the Act.
- c) Amendments to DOD Shipping Controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in subsection (a)(1)(B) are Government Bill of Lading (GBL) (GSA Standard Form 1103, supplemented as necessary with GSA Standard Form 1109), Requisition Tracking Form (DD Form 1348), the Signature and Talley Record (DD Form 1907), DOD Multimodal Dangerous Goods Declaration (DD Form 2890), and the Motor Vehicle Inspection Report (DD Form 626), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

BOARD NOTE: Corresponding federal provision 40 CFR 266.203(c) further provides as follows: "Any amendments to the Department of Defense shipping controls must become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in paragraph (a)(1)(ii) of this section have been amended." (40 CFR 266.203(a)(1)(ii) corresponds with 35 Ill. Adm. Code 726.303(a)(1)(B).) Section 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-75] prohibits the incorporation of later amendments and editions by reference. For this reason, interested persons or the Agency will need to notify the Board of any amendments of these references before those amendments can become effective under Illinois law.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.305 Standards Applicable to the Storage of Solid Waste Military Munitions**

- a) Criteria for Hazardous Waste Regulation of Waste Non-Chemical Military Munitions in Storage

- 1) Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under 35 Ill. Adm. Code 721 are listed or identified as a hazardous waste (and thus are subject to regulation under 35 Ill. Adm. Code 702, 703, 705, 720 through 728, 733, 738, and 739), unless all the following conditions are met:
  - A) The waste military munitions are not chemical agents or chemical munitions;
  - B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB);
  - C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions;
  - D) Within 90 days of when a storage unit is first used to store waste military munitions, the owner or operator must notify the Agency of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in subsection (a)(1) is claimed;
  - E) The owner or operator must provide oral notice to the Agency within 24 hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of subsection (a)(1) that may endanger health or the environment. In addition, a written submission describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of subsection (a)(1);
  - F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of subsection (a)(1), and must maintain records of the findings of these inventories and inspections for at least three years; and
  - G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.
- 2) The conditional exemption in subsection (a)(1) from regulation as hazardous waste must apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal.

- 3) The conditional exemption in subsection (a)(1) applies only so long as ~~all~~ ~~of~~ the conditions in subsection (a)(1) are met.
- b) Notice of Termination of Waste Storage. The owner or operator must notify the Agency when a storage unit identified in subsection (a)(1)(D) will no longer be used to store waste military munitions.
  - c) Reinstatement of Conditional Exemption
    - 1) If any waste military munition loses its conditional exemption under subsection (a)(1), an application may be filed with the Agency for reinstatement of the conditional exemption from hazardous waste storage regulation with respect to this ~~such~~ munition as soon as the munition is returned to compliance with the conditions of subsection (a)(1).
    - 2) If the Agency finds that reinstatement of the conditional exemption is appropriate, it must reinstate the conditional exemption of subsection (a)(1) in writing. The Agency's decision to reinstate or not to reinstate the conditional exemption must be based on two considerations: first, the nature of the risks to human health and the environment posed by the waste; and second, either the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation or any demonstration 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. In reinstating the conditional exemption under subsection (a)(1), the Agency may specify additional conditions as are necessary to ensure and document proper storage to adequately protect human health and the environment.
    - 3) The Agency may terminate a conditional exemption reinstated by default under subsection (c)(2) in writing if it finds that reinstatement is inappropriate based on its consideration of the factors set forth in subsection (c)(2). If the Agency terminates a reinstated exemption, it must transmit to the applicant specific, detailed statements in writing as to the reasons it terminated the reinstated exemption.
    - 4) The applicant under this subsection (c) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board under Section 40 of the Act.
  - d) Waste Chemical Munitions
    - 1) Waste military munitions are subject to the applicable regulatory requirements of RCRA subtitle C if the munitions satisfy two conditions: first, they are chemical agents or chemical munitions; and second, they

exhibit a hazardous waste characteristic or are listed as hazardous waste under 35 Ill. Adm. Code 721.

- 2) Waste military munitions are not subject to the storage prohibition in RCRA section 3004(j), codified at 35 Ill. Adm. Code 728.150, if the munitions satisfy two conditions: first, they are chemical agents or chemical munitions; and second, they exhibit a hazardous waste characteristic or are listed as hazardous waste under 35 Ill. Adm. Code 721.
- e) Amendments to DDESB Storage Standards. The DDESB storage standards applicable to waste military munitions, referenced in subsection (a)(1)(C), are DESR 6055.09 D (“Defense Explosives Safety Regulation 6055.09, Edition 1”), in effect on January 13, 2019, incorporated by reference in 35 Ill. Adm. Code 720.111.

BOARD NOTE: Corresponding federal provision 40 CFR 266.205(e), as added at 62 Fed. Reg. 6656 (Feb. 12, 1997), further provides as follows: “Any amendments to the DDESB storage standards must become effective for purposes of paragraph (a)(1) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in paragraph (a)(1) of this section have been amended.” Section 5-75 of the Illinois Administrative Procedure Act [5 ILCS 100/5-75] prohibits the incorporation of later amendments and editions by reference. For this reason, interested members of the regulated community will need to notify the Board of any amendments of these references before those amendments can become effective under Illinois law.

(Source: Amended at 44 Ill. Reg. 15427, effective September 3, 2020)

#### SUBPART N: CONDITIONAL EXEMPTION FOR LOW-LEVEL MIXED WASTE STORAGE, TREATMENT, TRANSPORTATION AND DISPOSAL

##### **Section 726.310 Definitions**

Terms are defined as follows for the purposes of this Subpart N:

“CERCLA reportable quantity” means that quantity of a particular substance designated by USEPA in federal 40 CFR 302.4 ~~under pursuant to the~~ Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC 9601 et seq.) for which notification is required upon a release to the environment.

“Certified delivery” means certified mail with return receipt requested, equivalent courier service, or other means that provides the sender with a receipt confirming delivery.

“Director” is as defined in 35 Ill. Adm. Code 702.110.

“Eligible naturally occurring or accelerator-produced radioactive material” means naturally occurring or accelerator-produced radioactive material (NARM) that is eligible for a transportation and disposal conditional exemption. It is a NARM waste that contains RCRA hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR 61, IEMA regulations, or the equivalent regulations of a licensing agency in another state.

BOARD NOTE: The IEMA regulations are codified at 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

“Exempted waste” means a waste that meets the eligibility criteria in Section 726.325 and ~~all of the~~ conditions in Section 726.330 or a waste that meets the eligibility criteria in Section 726.410 and ~~that which~~ complies with all the conditions in Section 726.415. ~~This Such~~ waste is conditionally exempted from the regulatory definition of hazardous waste in 35 Ill. Adm. Code 721.103.

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

“IEMA” means the Illinois Emergency Management Agency, the State of Illinois agency charged with regulating source, by-product, and special nuclear material in Illinois in accordance with an agreement between the State and the federal Nuclear Regulatory Commission (NRC) under section 274(b) of the federal Atomic Energy Act of 1954, as amended (42 USC 2021(b)).

BOARD NOTE: In addition to the materials regulated under this Part, IEMA regulates radioactive materials under the Radiation Protection Act of 1990 [42 ILCS 40] that are not licensed by the federal NRC. For the purposes of notices to IEMA required under this Subpart N, the address is as follows:

Illinois Emergency Management Agency  
2200 South Dirksen Parkway  
Springfield, Illinois 62703

“Land disposal restriction treatment standards” or “LDR treatment standards” means treatment standards, under 35 Ill. Adm. Code 728, that a RCRA hazardous waste must meet before it can be disposed of in a RCRA hazardous waste land disposal unit.

“License” means a license issued by the federal NRC or IEMA to a user that manages radionuclides regulated by the federal NRC or IEMA under authority of

the Atomic Energy Act of 1954, as amended (42 USC 2014 et seq.) or the Radiation Protection Act of 1990.

“Low-level mixed waste” or “LLMW” is a waste that contains both low-level radioactive waste and RCRA hazardous waste.

“Low-level radioactive waste” or “LLRW” is a radioactive waste that contains source, by-product, or special nuclear material and ~~that which~~ is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material, as defined in section 11(e)(2) of the Atomic Energy Act of 1954 (42 USC 2014(e)(2)), incorporated by reference in 35 Ill. Adm. Code 720.111(b). (See also the NRC definition of waste at federal 10 CFR 61.2.)

BOARD NOTE: This definition differs from the similar definitions of low-level radioactive waste in the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/3(k)], the Central Midwest Interstate Low-Level Radioactive Waste Compact Act [45 ILCS 140/1, Article II(k)], and 32 Ill. Adm. Code 606.20(g) of the IEMA regulations. Those basically define low-level radioactive waste as radioactive waste that is not high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material, as ~~such are~~ defined in section 11 of the federal Atomic Energy Act of 1954 (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

“Mixed waste” means a waste that contains both RCRA hazardous waste and source, by-product, or special nuclear material subject to the Atomic Energy Act of 1954, as amended (42 USC 2014 et seq.).

BOARD NOTE: This definition differs from the similar definitions of mixed waste in the Illinois Low-Level Radioactive Waste Management Act and 32 Ill. Adm. Code 606.20(h) of the IEMA regulations. Those basically define mixed waste as containing both RCRA hazardous waste and low-level radioactive waste, as ~~such is~~ defined under Section 3(k) of the Illinois Low-Level Radioactive Waste Management Act.

“Naturally occurring or accelerator-produced radioactive material” or “NARM” means a radioactive material that fulfills one of the following conditions:

It is naturally occurring and it is not a source, by-product, or special nuclear material, as defined in section 11 of the federal Atomic Energy Act of 1954 (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(c); or

It is produced by an accelerator.

BOARD NOTE: NARM is regulated by the State, under the Radiation Protection Act of 1990 and 32 Ill. Adm. Code: Chapter II, Subchapters b and d, or by the

federal Department of Energy (DOE), as authorized by the federal Atomic Energy Act (42 USC 2014 et seq.), under DOE regulations and orders.

“NRC” means the United States Nuclear Regulatory Commission.

BOARD NOTE: For the purposes of notices to the NRC required under this Subpart N, the address is as follows:

U.S. Nuclear Regulatory Commission, Region III  
2443 Warrenville Road, Suite 210  
Lisle, Illinois 60532-4352

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.325 Wastes Eligible for a Storage and Treatment Conditional Exemption for Low-Level Mixed Waste**

Low-level mixed waste (LLMW), as defined in Section 726.310, is eligible for a storage and treatment conditional exemption if it is generated and managed by a person under a single federal NRC or IEMA license. (Mixed waste generated at a facility with a different license number and shipped to a different person’s facility for storage or treatment requires a permit, and the such-mixed waste is ineligible for this exemption. In addition, NARM waste is ineligible for this exemption.)

(Source: Amended at 30 Ill. Reg. 3700, effective February 23, 2006)

### **Section 726.335 Treatment Allowed by a Storage and Treatment Conditional Exemption**

The generator may treat its low-level mixed waste at its facility within a tank or container in accordance with the terms of its federal NRC or IEMA license. Treatment that cannot be done in a tank or container without a RCRA permit (e.g., such as incineration) is not allowed under this exemption.

(Source: Amended at 30 Ill. Reg. 3700, effective February 23, 2006)

### **Section 726.340 Loss of a Storage and Treatment Conditional Exemption and Required Action**

- a) A generator’s LLMW will automatically lose the storage and treatment conditional exemption if the generator fails to meet any of the conditions specified in Section 726.330. When a generator’s LLMW loses the exemption, the generator must immediately manage that waste that which failed the condition as RCRA hazardous waste, and the storage unit storing the LLMW immediately becomes subject to RCRA hazardous waste container or tank storage requirements.

- 1) If a generator fails to meet any of the conditions specified in Section 726.330, the generator must report to the Agency, the Illinois DNS, and the NRC in writing by certified delivery within 30 days after learning of the failure. The generator's report must be signed by the generator's authorized representative certifying that the information provided is true, accurate, and complete. This report must include the following:
    - A) The specific conditions that the generator failed to meet;
    - B) A description of the LLMW (including the waste name, hazardous waste codes and quantity) and storage location at the facility; and
    - C) The dates on which the generator failed to meet the conditions.
  - 2) If the failure to meet any of the conditions may endanger human health or the environment, the generator must also immediately notify the Agency orally within 24 hours and follow up with a written notification within five days. A failure that may endanger human health or the environment may include, but is not limited to, discharge of a CERCLA reportable quantity or other leaking or exploding tanks or containers, or detection of radionuclides above background or hazardous constituents in the leachate collection system of a storage area. If the failure may endanger human health or the environment, the generator must follow the provisions of its emergency plan.
- b) The Board may, by an order issued in an enforcement proceeding against the generator, terminate the generator's conditional exemption for its LLMW, or require the generator to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirements of this Subpart N.

(Source: Amended at 27 Ill. Reg. 12916, effective July 17, 2003)

#### **Section 726.345 Reclaiming a Lost Storage and Treatment Conditional Exemption**

- a) A generator may reclaim a lost storage and treatment conditional exemption for its LLMW if the following conditions are fulfilled:
  - 1) The generator again meets the conditions specified in Section 726.330; and
  - 2) The generator sends the Agency a notice by certified delivery that the generator is reclaiming the exemption for its LLMW. The generator's notice must be signed by its authorized representative certifying that the information contained in the generator's notice is true, complete, and accurate. In its notice, the generator must do the following:

- A) Explain the circumstances of each failure.
  - B) Certify that the generator has corrected each failure that caused it to lose the exemption for its LLMW and that the generator again meets all the conditions as of the date that the generator specifies.
  - C) Describe plans that the generator has implemented, listing specific steps that it has taken, to ensure that the conditions will be met in the future.
  - D) Include any other information that the generator wants the Agency to consider when it reviews the generator's notice reclaiming the exemption.
- b) The Agency may terminate a reclaimed conditional exemption if it determines, in writing, under pursuant to Section 39 of the Act, that the generator's claim is inappropriate based on factors including, ~~but not limited to~~, the following: the generator has failed to correct the problem; the generator explained the circumstances of the failure unsatisfactorily; or the generator failed to implement a plan with steps to prevent another failure to meet the conditions of Section 726.330. In reviewing a reclaimed conditional exemption under pursuant to this Section, the Agency may add conditions to the exemption to ensure that waste management during storage and treatment of the LLMW will adequately protect human health and the environment. Any Agency determination made under pursuant to this subsection (b) is subject to review by the Board under pursuant to Section 40 of the Act.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

### **Section 726.430 Effectiveness of a Transportation and Disposal Exemption**

The exemption becomes effective once ~~all of~~ the following have occurred:

- a) The generator's eligible waste meets the applicable LDR treatment standards;
- b) The generator has received return receipts that it has notified the Agency and the LLRWDF, as described in Section 726.445;
- c) The generator has completed the packaging and preparation for shipment requirements for its waste according to federal NRC packaging and transportation regulations found under 10 CFR 71 (Packaging and Transportation of Radioactive Material), incorporated by reference in 35 Ill. Adm. Code 720.111(b), and under IEMA regulations at 32 Ill. Adm. Code 341; and a generator has prepared a manifest for a generator's waste according to NRC manifest regulations found under 10 CFR 20 (Standards for Protection Against Radiation), incorporated by

reference in 35 Ill. Adm. Code 720.111(b), or under IEMA regulations under 32 Ill. Adm. Code 340; and

- d) The generator has placed its waste on a transportation vehicle destined for a LLRWDF licensed by the federal NRC, the IEMA, or by a nuclear licensing agency in another state.

(Source: Amended at 30 Ill. Reg. 3700, effective February 23, 2006)

**Section 726.455 Loss of a Transportation and Disposal Conditional Exemption and Required Action**

- a) Any waste will automatically lose the transportation and disposal exemption if the generator fails to manage it in accordance with ~~all of~~ the conditions specified in Section 726.415.
  - 1) When the generator fails to meet any of the conditions specified in Section 726.415 for any of its wastes, the generator must report to the Agency and the Illinois DNS, in writing by certified delivery, within 30 days after learning of the failure. The generator's report must be signed by its authorized representative certifying that the information provided is true, accurate, and complete. This report must include the following:
    - A) The specific conditions that the generator failed to meet for the waste;
    - B) A description of the waste (including the waste name, hazardous waste codes and quantity) that lost the exemption; and
    - C) The dates on which the generator failed to meet the conditions for the waste.
  - 2) If the failure to meet any of the conditions may endanger human health or the environment, the generator must also immediately notify the Agency orally within 24 hours and follow up with a written notification within five days.
- b) The Board may, by an order issued in an enforcement proceeding against the generator, terminate the generator's ability to claim a conditional exemption for its waste, or require the generator to meet additional conditions to claim a conditional exemption, for serious or repeated noncompliance with any requirements of this Subpart N.

(Source: Amended at 27 Ill. Reg. 12916, effective July 17, 2003)

### Section 726.460 Reclaiming a Lost Transportation and Disposal Conditional Exemption

- a) A generator may reclaim a lost transportation and disposal conditional exemption for a waste after the generator has received a return receipt confirming that the Agency and IEMA have received the generator's notification of the loss of the exemption specified in Section 726.455(a) and if the following conditions are fulfilled:
- 1) The generator again meets the conditions specified in Section 726.415 for the waste; and
  - 2) The generator sends a notice, by certified delivery, to the Agency that the generator is reclaiming the exemption for the waste. A generator's notice must be signed by the generator's authorized representative certifying that the information provided is true, accurate, and complete. The notice must include ~~all of~~ the following:
    - A) An explanation of the circumstances of each failure;
    - B) A certification that each failure that caused the generator to lose the exemption for the waste has been corrected and that the generator again meets all conditions for the waste as of the date the generator specifies;
    - C) A description of plans that the generator has implemented, listing the specific steps that the generator has taken, to ensure that conditions will be met in the future; and
    - D) Any other information that the generator wants the Agency to consider when the Agency reviews the generator's notice reclaiming the exemption.
- b) The Agency may terminate a reclaimed conditional exemption if it determines, in writing, ~~under pursuant to~~ Section 39 of the Act, that the generator's claim is inappropriate based on factors including, ~~but not limited to~~, the following: the generator has failed to correct the problem; the generator explained the circumstances of the failure unsatisfactorily; or the generator has failed to implement a plan with steps to prevent another failure to meet the conditions of Section 726.415. In reviewing a reclaimed conditional exemption ~~under pursuant to~~ this Section, the Agency may add conditions to the exemption to ensure that transportation and disposal activities will adequately protect human health and the environment. Any Agency determination made ~~under pursuant to~~ this subsection (b) is subject to review by the Board ~~under pursuant to~~ Section 40 of the Act.

(Source: Amended at 42 Ill. Reg. 23023, effective November 19, 2018)

## SUBPART P: HAZARDOUS WASTE PHARMACEUTICALS

**Section 726.601 Applicability**

- a) A healthcare facility that is a VSQG when counting ~~all of~~ its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to 35 Ill. Adm. Code 722.114 and is not subject to this Subpart P, except for Sections 726.605 and 726.607 and the optional provisions of Section 726.604.
- b) A healthcare facility that is a VSQG when counting ~~all of~~ its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, has the option of complying with Section 726.601(d) for the management of its hazardous waste pharmaceuticals as an alternative to complying with 35 Ill. Adm. Code 722.114 and the optional provisions of Section 726.604.
- c) A healthcare facility or reverse distributor remains subject to all applicable requirements in 35 Ill. Adm. Code 722 through 725 with respect to the management of its non-pharmaceutical hazardous waste.
- d) With the exception of healthcare facilities identified in subsection (a), a healthcare facility is subject to the following in lieu of 35 Ill. Adm. Code 722 through 725:
  - 1) Sections 726.602 and 726.605 through 726.608 with respect to the management of the following:
    - A) Non-creditable hazardous waste pharmaceuticals; and
    - B) Potentially creditable hazardous waste pharmaceuticals if they are not destined for a reverse distributor.
  - 2) Sections 726.602(a), 726.603, 726.605 through 726.607, and 726.609 with respect to the management of potentially creditable hazardous waste pharmaceuticals that are prescription pharmaceuticals and that are destined for a reverse distributor.
- e) A reverse distributor is subject to Sections 726.605 through 726.610, in lieu of 35 Ill. Adm. Code 722 through 725, with respect to the management of hazardous waste pharmaceuticals.
- f) Hazardous waste pharmaceuticals generated or managed by entities other than healthcare facilities and reverse distributors (e.g., pharmaceutical manufacturers and reverse logistics centers) are not subject to this Subpart P. Other generators are subject to 35 Ill. Adm. Code 722 for the generation and accumulation of hazardous wastes, including hazardous waste pharmaceuticals.

- g) The following are not subject to 35 Ill. Adm. Code 720 through 733, except as otherwise specified:
- 1) Pharmaceuticals that are not solid waste, as defined by 35 Ill. Adm. Code 721.102, because they are legitimately used or reused (e.g., lawfully donated for their intended purpose) or reclaimed.
  - 2) Over-the-counter pharmaceuticals, dietary supplements, or homeopathic drugs that are not solid wastes, as defined by 35 Ill. Adm. Code 721.102, because there is a reasonable expectation of their being legitimately used or reused (e.g., lawfully redistributed for their intended purpose) or reclaimed.
  - 3) Pharmaceuticals being managed in accordance with a recall strategy that has been approved by the Food and Drug Administration in accordance with subpart C of 21 CFR 7. This Subpart P applies to the management of the recalled hazardous waste pharmaceuticals after the Food and Drug Administration approves the destruction of the recalled items.
  - 4) Pharmaceuticals being managed in accordance with a recall corrective action plan that has been accepted by the Consumer Product Safety Commission in accordance with 16 CFR 1115. This Subpart P applies to the management of the recalled hazardous waste pharmaceuticals after the Consumer Product Safety Commission approves the destruction of the recalled items.
  - 5) Pharmaceuticals stored according to a preservation order or during an investigation or judicial proceeding, until after the preservation order, investigation, or judicial proceeding has concluded or a decision is made to discard the pharmaceuticals.
  - 6) Investigational new drugs for which an investigational new drug application is in effect in accordance with the Food and Drug Administration's regulations in 21 CFR 312. This Subpart P applies to the management of the investigational new drug after the decision is made to discard the investigational new drug or the Food and Drug Administration approves the destruction of the investigational new drug, if the investigational new drug is a hazardous waste.
  - 7) Household waste pharmaceuticals, including those that have been collected by a "collector", as defined in 21 CFR 1300.01, incorporated by reference in 35 Ill. Adm. Code 720.111, provided the authorized collector complies with the conditional exemption in Section 726.606(a)(2) and (b).

BOARD NOTE: The Drug Enforcement Administration regulations define "collector" in the second segment of the definition of "collection"

in 21 CFR 1300.01. The authorized status of the collector is part of the definition.

(Source: Added at 44 Ill. Reg. 15427, effective September 3, 2020)

**Section 726.602 Standards for Non-Creditable Hazardous Waste Pharmaceuticals**

- a) Notification and Withdrawal from this Subpart P for Healthcare Facilities Managing Hazardous Waste Pharmaceuticals
- 1) Notification. A healthcare facility must notify the Agency, using Notification of RCRA Subtitle C Activities (Site Identification Form) (USEPA Form 8700-12), that it is a healthcare facility operating under this Subpart P. A healthcare facility is not required to fill out Box 10.B. (Waste Codes for Federally Regulated Hazardous Waste) of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility must submit a separate notification (using the Site Identification Form) for each site or USEPA identification number.
    - A) A healthcare facility that already has a USEPA identification number must notify the Agency, using USEPA Form 8700-12, that it is a healthcare facility as part of its next annual report, if it is required to submit one; or, if not required to submit an annual report, within 60 days after becoming subject to this Subpart P.
    - B) A healthcare facility that does not have a USEPA identification number must obtain one by notifying the Agency, using USEPA Form 8700-12, that it is a healthcare facility as part of its next annual report, if it is required to submit one; or if not required to submit an annual report, within 60 days after becoming subject to this Subpart P.
    - C) A healthcare facility must keep a copy of its notification on file for as long as the healthcare facility is subject to this Subpart P.

BOARD NOTE: Corresponding 40 CFR 266.602(a)(1) requires biennial reporting. The Board has required annual reporting, since Section 20.1 of the Act requires the Agency to assemble annual reports, and only annual facility activity reports will enable the Agency to fulfill this mandate.

- 2) Withdrawal. A healthcare facility that operated under this Subpart P but is no longer subject to this Subpart P, because it is a VSQG under 35 Ill. Adm. Code 722.114, and that elects to withdraw from this Subpart P, must notify the appropriate agency using USEPA Form 8700-12 that it is no longer operating under this Subpart P. A healthcare facility is not required to fill out Box 10.B. (Waste Codes for Federally Regulated Hazardous

Waste) of USEPA Form 8700-12 with respect to its hazardous waste pharmaceuticals. A healthcare facility must submit a separate notification (using USEPA Form 8700-12) for each USEPA identification number.

- A) A healthcare facility must submit USEPA Form 8700-12 notifying that it is withdrawing from this Subpart P before it begins operating under the conditional exemption of 35 Ill. Adm. Code 722.114.
  - B) A healthcare facility must keep a copy of its withdrawal on file for three years after the date of signature on the notification of its withdrawal.
- b) **Training of Personnel Managing Non-Creditable Hazardous Waste Pharmaceuticals at Healthcare Facilities.** A healthcare facility must ensure that all personnel managing non-creditable hazardous waste pharmaceuticals are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.
- c) **Hazardous Waste Determination for Non-Creditable Pharmaceuticals.** A healthcare facility that generates a solid waste that is a non-creditable pharmaceutical must determine whether that pharmaceutical is a hazardous waste pharmaceutical (i.e., it exhibits a characteristic identified in Subpart D of 35 Ill. Adm. Code 721 or is listed in Subpart D of 35 Ill. Adm. Code 721) in order to determine whether the waste is subject to this Subpart P. A healthcare facility may choose to manage its non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals under this Subpart P.
- d) **Standards for Containers Used to Accumulate Non-Creditable Hazardous Waste Pharmaceuticals at Healthcare Facilities**
- 1) A healthcare facility must place non-creditable hazardous waste pharmaceuticals in a container that is structurally sound, compatible with its contents, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - 2) A healthcare facility that manages ignitable or reactive non-creditable hazardous waste pharmaceuticals, or that mixes or commingles incompatible non-creditable hazardous waste pharmaceuticals, must manage the container so that it does not have the potential to do any of the following:
    - A) Generate extreme heat or pressure, fire or explosion, or violent reaction;

- B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;
  - C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;
  - D) Damage the structural integrity of the container of non-creditable hazardous waste pharmaceuticals; or
  - E) Through other like means threaten human health or the environment.
- 3) A healthcare facility must keep containers of non-creditable hazardous waste pharmaceuticals closed and secured in a manner that prevents unauthorized access to their contents.
- 4) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals and nonhazardous non-creditable waste pharmaceuticals in the same container, except that the healthcare facility must accumulate non-creditable hazardous waste pharmaceuticals prohibited from being combusted because of the dilution prohibition of 35 Ill. Adm. Code 728.103(c) in separate containers and label the containers with all applicable USEPA hazardous waste numbers.
- e) **Labeling Containers Used to Accumulate Non-Creditable Hazardous Waste Pharmaceuticals at Healthcare Facilities.** A healthcare facility must label or clearly mark each container of non-creditable hazardous waste pharmaceuticals with the phrase “Hazardous Waste Pharmaceuticals”.
- f) **Maximum Accumulation Time for Non-Creditable Hazardous Waste Pharmaceuticals at Healthcare Facilities**
- 1) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals on site for one year or less without a permit or having interim status.
  - 2) A healthcare facility that accumulates non-creditable hazardous waste pharmaceuticals on-site must demonstrate the length of time that the facility has accumulated the non-creditable hazardous waste pharmaceuticals, starting from the date it first becomes a waste. A healthcare facility may make this demonstration by any of the following methods:
    - A) Marking or labeling the container of non-creditable hazardous waste pharmaceuticals with the date when the non-creditable hazardous waste pharmaceuticals became a waste;

- B) Maintaining an inventory system that identifies the date when the accumulated non-creditable hazardous waste pharmaceuticals first became a waste;
  - C) Placing the non-creditable hazardous waste pharmaceuticals in a specific area and identifying the earliest date when any of the non-creditable hazardous waste pharmaceuticals in the area became a waste.
- g) Land Disposal Restrictions for Non-Creditable Hazardous Waste Pharmaceuticals. The non-creditable hazardous waste pharmaceuticals generated by a healthcare facility are subject to the land disposal restrictions of 35 Ill. Adm. Code 728. A healthcare facility that generates non-creditable hazardous waste pharmaceuticals must comply with the land disposal restrictions in accordance with 35 Ill. Adm. Code 728.107(a) requirements, except that it is not required to identify the USEPA hazardous waste numbers on the land disposal restrictions notification.
- h) Procedures for Healthcare Facilities for Managing Rejected Shipments of Non-Creditable Hazardous Waste Pharmaceuticals. A healthcare facility that sends a shipment of non-creditable hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and that later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of 35 Ill. Adm. Code 724.172 or 725.172, may accumulate the returned non-creditable hazardous waste pharmaceuticals on-site for up to an additional 90 days provided the rejected or returned shipment is managed in accordance with subsections (d) and (e). Upon receipt of the returned shipment, the healthcare facility must do the following:
- 1) Sign the applicable of the following:
    - A) Item 18c (Signature of Alternate Facility (or Generator)) of the original manifest, if the original manifest was used for the returned shipment; or
    - B) Item 20 (Designated Facility Owner or Operator. Certification of hazardous materials covered by the manifest except as noted in Item 18a) of the new manifest, if a new manifest was used for the returned shipment;
  - 2) Provide the transporter a copy of the manifest;
  - 3) Within 30 days after receipt of the rejected shipment, send a copy of the manifest to the designated facility that returned the shipment to the healthcare facility; and

- 4) Within 90 days after receipt of the rejected shipment, transport or offer for transport the returned shipment in accordance with the shipping standards of Section 726.608(a).
- i) Reporting by Healthcare Facilities for Non-Creditable Hazardous Waste Pharmaceuticals
    - 1) Biennial Reporting by Healthcare Facilities. Healthcare facilities are not subject to annual reporting requirements under 35 Ill. Adm. Code 722.141, with respect to non-creditable hazardous waste pharmaceuticals managed under this Subpart P.
    - 2) Exception Reporting by Healthcare Facilities for a Missing Copy of the Manifest
      - A) For Shipments from a Healthcare Facility to a Designated Facility. If a healthcare facility does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 60 days after the date when the initial transporter accepted the non-creditable hazardous waste pharmaceuticals, the healthcare facility must submit the following:
        - i) A legible copy of the original manifest to the Agency, indicating that the healthcare facility has not received confirmation of delivery; and
        - ii) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.
      - B) For Shipments Rejected by the Designated Facility and Shipped to an Alternate Facility. If a healthcare facility does not receive a copy of the manifest for a rejected shipment of the non-creditable hazardous waste pharmaceuticals that is forwarded by the designated facility to an alternate facility (using appropriate manifest procedures), with the signature of the owner or operator of the alternate facility, within 60 days after the date when the initial transporter forwarding the shipment of non-creditable hazardous waste pharmaceuticals from the designated facility to the alternate facility accepted the non-creditable hazardous waste, the healthcare facility must submit the following:

- i) A legible copy of the original manifest to the Agency, indicating that the healthcare facility has not received confirmation of delivery; and
    - ii) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.
  - 3) Additional Reports. The Agency may, in writing, require a healthcare facility to furnish additional reports concerning the quantities and disposition of non-creditable hazardous waste pharmaceuticals.
- j) Recordkeeping by Healthcare Facilities for Non-Creditable Hazardous Waste Pharmaceuticals
- 1) A healthcare facility must keep a copy of each manifest signed in accordance with 35 Ill. Adm. Code 722.123(a) for three years or until it receives a signed copy from the designated facility that received the non-creditable hazardous waste pharmaceuticals. The healthcare facility must retain this signed copy as a record for at least three years after the date when the initial transporter accepted the waste.
  - 2) A healthcare facility must keep a copy of each exception report for a period of at least three years after the date of the report.
  - 3) A healthcare facility must keep records of any test results, waste analyses, or other determinations made to support its hazardous waste determinations consistent with 35 Ill. Adm. Code 722.111(f), for at least three years after the date the waste was last sent to onsite or off-site treatment, storage, or disposal. A healthcare facility that manages ~~all of its~~ non-creditable nonhazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals is not required to keep documentation of its hazardous waste determinations.
  - 4) The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested in writing by the Agency.
  - 5) A healthcare facility must make all records readily available upon request by a USEPA or Agency inspector.
- k) Response to Spills of Non-Creditable Hazardous Waste Pharmaceuticals at Healthcare Facilities. A healthcare facility must immediately contain all spills of non-creditable hazardous waste pharmaceuticals and manage the spill clean-up

materials as non-creditable hazardous waste pharmaceuticals in accordance with the requirements of this Subpart P.

- l) **Accepting Non-Creditable Hazardous Waste Pharmaceuticals from an Off-Site Healthcare Facility That Is a VSQG.** A healthcare facility may accept non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a VSQG under 35 Ill. Adm. Code 722.114, without a permit or without having interim status, provided the receiving healthcare facility fulfills the following conditions:
  - 1) The receiving healthcare facility is under the control of the same person (as defined in 35 Ill. Adm. Code 720.110) as the VSQG healthcare facility sending the non-creditable hazardous waste pharmaceuticals off-site or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the VSQG healthcare facility. (“Control”, for the purposes of this subsection (l)(1), means the power to direct the policies of the healthcare facility, whether by the ownership of stock, voting rights, or otherwise. A contractor that operates a healthcare facility on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, does not “control” a healthcare facility);
  - 2) The receiving healthcare facility is operating under this Subpart P for the management of its non-creditable hazardous waste pharmaceuticals;
  - 3) The receiving healthcare facility manages the non-creditable hazardous waste pharmaceuticals that it receives from off site in compliance with this Subpart P; and
  - 4) The receiving healthcare facility keeps records of the non-creditable hazardous waste pharmaceuticals shipments it receives from off site for three years after the date when it received the shipment.

(Source: Added at 44 Ill. Reg. 15427, effective September 3, 2020)

### **Section 726.608 Shipping from a Healthcare Facility or Reverse Distributor**

- a) **Shipping Non-Creditable Hazardous Waste Pharmaceuticals or Evaluated Hazardous Waste Pharmaceuticals.** A healthcare facility must ship non-creditable hazardous waste pharmaceuticals and a reverse distributor must ship evaluated hazardous waste pharmaceuticals off-site to a designated facility (~~like such as a~~ permitted or interim status treatment, storage, or disposal facility) in compliance with the following requirements:
  - 1) The following pre-transport requirements, before transporting or offering for transport off-site:

- A) Packaging. Applicable USDOT regulations on hazardous materials under 49 CFR 173, 178, and 180, each incorporated by reference in 35 Ill. Adm. Code 720.111;
- B) Labeling. Applicable USDOT regulations on hazardous materials under subpart E of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111;

C) Marking

- i) Applicable USDOT regulations for hazardous materials under subpart D of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111;
- ii) Mark each container of 119 gallons (450 ℓ) or less used in ~~such~~ transportation with the following words and information in accordance with 49 CFR 172.304, incorporated by reference in 35 Ill. Adm. Code 720.111:

HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Healthcare Facility’s or Reverse distributor’s Name and Address \_\_\_\_\_

Healthcare Facility’s or Reverse distributor’s USEPA Identification Number \_\_\_\_\_

Manifest Tracking Number \_\_\_\_\_

- iii) Lab packs that will be incinerated in compliance with 35 Ill. Adm. Code 728.142(c) are not required to be marked with USEPA hazardous waste numbers, except D004, D005, D006, D007, D008, D010, and D011, if applicable. A nationally recognized electronic system, ~~like such~~ as bar coding or radio frequency identification, may be used to identify the USEPA hazardous waste numbers; and
- D) Placarding. Placard or offer the initial transporter the appropriate placards according to USDOT regulations for hazardous materials under subpart F of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111.

- 2) The manifest requirements of Subpart B of 35 Ill. Adm. Code 722, except as follows:
  - A) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals is not required to list all applicable hazardous waste numbers (i.e., hazardous waste codes) in Item 13 of USEPA Form 8700-12.
  - B) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals must write the word “PHARMS” in Item 13 of USEPA Form 8700-12.
- b) Exporting Non-Creditable Hazardous Waste Pharmaceuticals or Evaluated Hazardous Waste Pharmaceuticals. A healthcare facility or reverse distributor that exports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to Subpart H of 35 Ill. Adm. Code 722.
- c) Importing Non-Creditable Hazardous Waste Pharmaceuticals or Evaluated Hazardous Waste Pharmaceuticals. Any person that imports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to Subpart H of 35 Ill. Adm. Code 722. A healthcare facility or reverse distributor may not accept imported non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals without a permit or interim status allowing the facility or distributor to accept hazardous waste from off site.

(Source: Added at 44 Ill. Reg. 15427, effective September 3, 2020)

### **Section 726.610 Standards for Reverse Distributors**

A reverse distributor may accept potentially creditable hazardous waste pharmaceuticals from off site and accumulate potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals on site without a hazardous waste permit or without having interim status, provided that the reverse distributor complies with the following conditions:

- a) Standards for Reverse Distributors Managing Potentially Creditable Hazardous Waste Pharmaceuticals and Evaluated Hazardous Waste Pharmaceuticals
  - 1) Notification. A reverse distributor must notify the Agency, using USEPA Form 8700-12, that it is a reverse distributor operating under this Subpart P.
    - A) A reverse distributor that already has a USEPA identification number must notify the Agency, using USEPA Form 8700-12, that it is a reverse distributor, as defined in Section 726.600, before

September 3, 2020, or within 60 days after becoming subject to this Subpart P.

- B) A reverse distributor that does not have a USEPA identification number must obtain one by notifying the Agency, using USEPA Form 8700-12, that it is a reverse distributor, as defined in Section 726.600, within 60 days after becoming subject to this Subpart P.
- 2) Inventory by the Reverse Distributor. A reverse distributor must maintain a current inventory of all the potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals that the reverse distributor has accumulated on site.
- A) A reverse distributor must inventory each potentially creditable hazardous waste pharmaceutical within 30 calendar days after each waste arrived at the reverse distributor.
- B) The inventory must include the identity (e.g., name or National Drug Code) and quantity of each potentially creditable hazardous waste pharmaceutical and evaluated hazardous waste pharmaceutical.
- BOARD NOTE: The National Drug Code (NDC) is a three-segment number (including labeler code, product code, and package code) uniquely identifying drugs. The Food and Drug Administration (FDA) assigns the labeler code, and the labeler assigns the product and package codes. 21 CFR 207.33. The NDC is required in applications for registration. 21 CFR 1.74(a) and 1.75(a). The FDA maintains an Internet database for NDC look-up (<https://www.fda.gov/drugs/drug-approvals-and-databases/national-drug-code-directory>). The FDA requests but does not require use of the NDC on the product label. 21 CFR 201.2. However, if required on drug packaging, the bar code includes the NDC. 21 CFR 201.25(c).
- C) If the reverse distributor already meets the inventory requirements of this subsection (a)(2) through compliance with other regulatory requirements, ~~like such as~~ 68 Ill. Adm. Code 1330 under the Pharmacy Practice Act [225 ILCS 85] or 68 Ill. Adm. Code 1510 under the Wholesale Drug Distribution Licensing Act [225 ILCS 120], the facility is not required to provide a separate inventory under this Section.
- 3) Evaluation by a Reverse Distributor That Is Not a Manufacturer. A reverse distributor that is not a pharmaceutical manufacturer must evaluate

a potentially creditable hazardous waste pharmaceutical within 30 calendar days after the waste arrived at the reverse distributor to establish whether the waste is destined for another reverse distributor for further evaluation or verification of manufacturer credit or for a permitted or interim status treatment, storage, or disposal facility.

- A) A potentially creditable hazardous waste pharmaceutical that is destined for another reverse distributor is still considered a “potentially creditable hazardous waste pharmaceutical”, and the reverse distributor must manage the waste in accordance with subsection (b).
  - B) A potentially creditable hazardous waste pharmaceutical that is destined for a permitted or interim status treatment, storage or disposal facility is considered an “evaluated hazardous waste pharmaceutical”, and the reverse distributor must manage the waste in accordance with subsection (c).
- 4) Evaluation by a Reverse Distributor That Is a Manufacturer. A reverse distributor that is a pharmaceutical manufacturer must evaluate a potentially creditable hazardous waste pharmaceutical to verify manufacturer credit within 30 calendar days after the waste arrived at the facility, and the reverse distributor must manage the evaluated hazardous waste pharmaceuticals in accordance with subsection (c) following the evaluation.
- 5) Maximum Accumulation Time for Hazardous Waste Pharmaceuticals at a Reverse Distributor
- A) A reverse distributor may accumulate potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals on site for 180 or fewer calendar days. The 180 days start after the reverse distributor evaluates the potentially creditable hazardous waste pharmaceutical and applies to all hazardous waste pharmaceuticals accumulated on site, regardless of whether the pharmaceuticals are destined for another reverse distributor (i.e., the pharmaceuticals are potentially creditable hazardous waste pharmaceuticals) or a permitted or interim status treatment, storage, or disposal facility (i.e., the pharmaceuticals are evaluated hazardous waste pharmaceuticals).
  - B) Aging Pharmaceuticals. Unexpired pharmaceuticals that are otherwise creditable but are awaiting their expiration date (i.e., aging in a holding morgue) can be accumulated for up to 180 days after the expiration date, provided that the reverse distributor

manages the unexpired pharmaceuticals in accordance with subsection (a) and the container labeling and management standards in subsection (c)(4).

- 6) Security at the Reverse Distributor Facility. A reverse distributor must prevent unknowing entry and minimize the possibility for the unauthorized entry into the portion of the facility if the reverse distributor keeps potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.
  - A) Examples of methods that a reverse distributor may use to prevent unknowing entry and minimize the possibility for unauthorized entry include the following:
    - i) A 24-hour continuous monitoring surveillance system;
    - ii) An artificial barrier e.g., such as a fence; or
    - iii) A means to control entry, e.g., such as keycard access.
  - B) If the reverse distributor already meets the security requirements of this subsection (a)(6) through compliance with other regulatory requirements, e.g., such as federal DEA or Department of Financial and Professional Regulation rules, the facility is not required to provide separate security measures under this Section.
- 7) Contingency Plan and Emergency Procedures at a Reverse Distributor. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site must prepare a contingency plan and comply with the other requirements of Subpart M of 35 Ill. Adm. Code 722.
- 8) Closure of a Reverse Distributor. When closing an area where a reverse distributor accumulates potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals, the reverse distributor must comply with 35 Ill. Adm. Code 722.117(a)(8)(B) and (a)(8)(C).
- 9) Reporting by a Reverse Distributor
  - A) Unauthorized Waste Report. A reverse distributor must submit an unauthorized waste report if the reverse distributor receives waste from off site that it is not authorized to receive (e.g., non-pharmaceutical hazardous waste, regulated medical waste, etc.). The reverse distributor must prepare and submit an unauthorized waste report to the Agency within 45 calendar days after the

unauthorized waste arrives at the reverse distributor, and the reverse distributor must send a copy of the unauthorized waste report to the healthcare facility (or other entity) that sent the unauthorized waste. The reverse distributor must manage the unauthorized waste in accordance with all applicable regulations. The unauthorized waste report must be signed by the owner or operator of the reverse distributor or its authorized representative. The report must contain the following information:

- i) The USEPA identification number, name, and address of the reverse distributor;
  - ii) The date the reverse distributor received the unauthorized waste;
  - iii) The USEPA identification number, name, and address of the healthcare facility that shipped the unauthorized waste, if available;
  - iv) A description and the quantity of each unauthorized waste the reverse distributor received;
  - v) The method of treatment, storage, or disposal for each unauthorized waste; and
  - vi) A brief explanation of why the waste was unauthorized, if known.
- B) Additional Reports. The Agency may require a reverse distributor to furnish additional reports concerning the quantities and disposition of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals that the Agency determines in writing are necessary to demonstrate compliance with this Subpart P.
- 10) Recordkeeping by Reverse Distributors. A reverse distributor must keep the following records (paper or electronic) readily available upon request by an Agency or USEPA inspector. The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested in writing by the Agency.
- A) A copy of its notification under Section 726.602 on file for as long as the facility is subject to this Subpart P;

- B) A copy of the delivery confirmation and the shipping papers for each shipment of potentially creditable hazardous waste pharmaceuticals that it receives, and a copy of each unauthorized waste report, for at least three years after the date when the shipment arrives at the reverse distributor;
  - C) A copy of its current inventory for as long as the facility is subject to this Subpart P.
- b) Additional Standards for Reverse Distributors Managing Potentially Creditable Hazardous Waste Pharmaceuticals Destined for Another Reverse Distributor. A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements in subsection (a), for the management of potentially creditable hazardous waste pharmaceuticals that are destined for another reverse distributor for further evaluation or verification of manufacturer credit:
- 1) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from a healthcare facility must send those potentially creditable hazardous waste pharmaceuticals to another reverse distributor within 180 days after evaluating the potentially creditable hazardous waste pharmaceuticals or must follow subsection (c) for evaluated hazardous waste pharmaceuticals.
  - 2) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from another reverse distributor must send those potentially creditable hazardous waste pharmaceuticals to a reverse distributor that is a pharmaceutical manufacturer within 180 days after evaluating the potentially creditable hazardous waste pharmaceuticals or must follow subsection (c) for evaluated hazardous waste pharmaceuticals.
  - 3) A reverse distributor must ship potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor in accordance with Section 726.609.
  - 4) Recordkeeping by Reverse Distributors. A reverse distributor must keep the following records (paper or electronic) readily available upon request by an Agency or USEPA inspector for each shipment of potentially creditable hazardous waste pharmaceuticals that it initiates to another reverse distributor, for at least three years after the date of shipment. The retention periods referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested in writing by the Agency.
    - A) The confirmation of delivery; and

- B) The USDOT shipping papers prepared in accordance with subpart C of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111, if applicable.
- c) Additional Standards for Reverse Distributors Managing Evaluated Hazardous Waste Pharmaceuticals. A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements of subsection (a), for the management of evaluated hazardous waste pharmaceuticals:
- 1) Accumulation Area at the Reverse Distributor. A reverse distributor must designate an on-site accumulation area where it will accumulate evaluated hazardous waste pharmaceuticals.
  - 2) Inspections of On-Site Accumulation Area. A reverse distributor must inspect its on-site accumulation area at least once every seven days, looking at containers for leaks and for deterioration caused by corrosion or other factors, as well as for signs of diversion.
  - 3) Personnel Training at a Reverse Distributor. Personnel at a reverse distributor that handle evaluated hazardous waste pharmaceuticals are subject to the training requirements of 35 Ill. Adm. Code 722.117(a)(7).
  - 4) Labeling and Management of Containers at On-Site Accumulation Areas. A reverse distributor accumulating evaluated hazardous waste pharmaceuticals in containers in an on-site accumulation area must do the following:
    - A) Label the containers with the words “hazardous waste pharmaceuticals”;
    - B) Ensure the containers are in good condition and managed to prevent leaks;
    - C) Use containers made of or lined with materials that will not react with, and are otherwise compatible with, the evaluated hazardous waste pharmaceuticals, so that the ability of the container to contain the waste is not impaired;
    - D) Keep containers closed, if holding liquid or gel evaluated hazardous waste pharmaceuticals. If the liquid or gel evaluated hazardous waste pharmaceuticals are in their original, intact, and sealed packaging or in repackaged, intact, and sealed packaging, they meet the closed-container standard;

- E) Manage any container of ignitable or reactive evaluated hazardous waste pharmaceuticals, or any container of commingled incompatible evaluated hazardous waste pharmaceuticals so that the container does not have the potential to do any of the following:
- i) Generate extreme heat or pressure, fire or explosion, or violent reaction;
  - ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;
  - iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;
  - iv) Damage the structural integrity of the container of hazardous waste pharmaceuticals; or
  - v) Through other like means threaten human health or the environment; and
- F) Accumulate evaluated hazardous waste pharmaceuticals that are prohibited from being combusted because of the dilution prohibition of 35 Ill. Adm. Code 728.103(c) (e.g., arsenic trioxide (P012)) in separate containers from other evaluated hazardous waste pharmaceuticals at the reverse distributor.
- 5) Hazardous Waste Numbers. Prior to shipping evaluated hazardous waste pharmaceuticals off site, all containers must be marked with the applicable hazardous waste numbers (i.e., hazardous waste codes). A nationally recognized electronic system, ~~like such as~~ bar coding or radio frequency identification, may be used to identify the USEPA hazardous waste numbers.
- 6) Shipments. A reverse distributor must ship evaluated hazardous waste pharmaceuticals that are destined for a permitted or interim status treatment, storage, or disposal facility in accordance with the applicable shipping standards in Section 726.608(a) or (b).
- 7) Procedures for a Reverse Distributor for Managing Rejected Shipments. A reverse distributor that sends a shipment of evaluated hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and that later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of 35 Ill. Adm. Code 724.172 or 725.172, may accumulate the returned evaluated hazardous waste pharmaceuticals

on site for up to an additional 90 days in the on-site accumulation area, provided the rejected or returned shipment is managed in accordance with subsections (a) and (c). Upon receipt of the returned shipment, the reverse distributor must do the following:

- A) Sign the appropriate of the following:
    - i) Item 18c (Signature of Alternate Facility (or Generator)) of the original manifest, if the original manifest was used for the returned shipment; or
    - ii) Item 20 (Designated Facility Owner or Operator. Certification of hazardous materials covered by the manifest except as noted in Item 18a) of the new manifest, if a new manifest was used for the returned shipment;
  - B) Provide the transporter a copy of the manifest;
  - C) Within 30 days after receipt of the rejected shipment of evaluated hazardous waste pharmaceuticals, send a copy of the manifest to the designated facility that returned the shipment to the reverse distributor; and
  - D) Within 90 days after receipt of the rejected shipment, transport or offer for transport the returned shipment of evaluated hazardous waste pharmaceuticals in accordance with the applicable shipping standards of Section 726.608(a) or (b).
- 8) Land Disposal Restrictions. Evaluated hazardous waste pharmaceuticals are subject to the land disposal restrictions of 35 Ill. Adm. Code 728. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site must comply with the land disposal restrictions in accordance with 35 Ill. Adm. Code 728.107(a) requirements.
- 9) Reporting by a Reverse Distributor for Evaluated Hazardous Waste Pharmaceuticals
- A) Biennial Reporting by a Reverse Distributor. A reverse distributor that ships evaluated hazardous waste pharmaceuticals off-site must prepare and submit a single copy of an annual report to the Agency by March 1 of each year in accordance with 35 Ill. Adm. Code 722.141.
  - B) Exception Reporting by a Reverse Distributor for a Missing Copy of the Manifest

- i) If a reverse distributor does not receive a copy of the manifest with the signature of the owner or operator of the designated or alternate facility within 35 days after the date when the initial transporter accepted the evaluated hazardous waste pharmaceuticals, the reverse distributor must contact the transporter or the owner or operator of the designated or alternate facility, as applicable, to determine the status of the evaluated hazardous waste pharmaceuticals. For a shipment from the designated facility to an alternate facility, the 35-days begin when the transporter forwarding the evaluated hazardous waste pharmaceuticals accepted them.
- ii) A reverse distributor must submit an exception report to the Agency if it has not received a copy of the manifest with the signature of the owner or operator of the designated or alternate facility within 45 days after the date when the initial transporter accepted the evaluated hazardous waste pharmaceuticals. In the case of a shipment from the designated facility to an alternate facility, the 45-days begin when the transporter forwarding the evaluated hazardous waste pharmaceuticals accepted them. The exception report must include a legible copy of the manifest for which the reverse distributor does not have confirmation of delivery and a cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

BOARD NOTE: The Board combined 40 CFR 266.510(c)(9)(ii)(A)(1) and (c)(9)(ii)(B)(1) as subsection (c)(9)(B)(i) and 40 CFR 266.510(c)(9)(ii)(A)(2), (c)(9)(ii)(A)(2)(i), (c)(9)(ii)(A)(2)(ii), (c)(9)(ii)(B)(2), (c)(9)(ii)(B)(2)(i), and (c)(9)(ii)(B)(2)(ii) as subsection (c)(9)(B)(ii) to comport with codification requirements.

- 10) Recordkeeping by a Reverse Distributor for Evaluated Hazardous Waste Pharmaceuticals
  - A) A reverse distributor must keep a log (written or electronic) of the inspections of its onsite accumulation area required by subsection (c)(2). The reverse distributor must retain this log as a record for at least three years after the date of the inspection.

- B) A reverse distributor must keep a copy of each manifest signed in accordance with 35 Ill. Adm. Code 722.123(a) for three years or until it receives a signed copy from the designated facility that received the evaluated hazardous waste pharmaceutical. The reverse distributor must retain this signed copy as a record for at least three years after the date when the initial transporter accepted the evaluated hazardous waste pharmaceutical.
  - C) A reverse distributor must keep a copy of each biennial report for at least three years after the due date of the report.
  - D) A reverse distributor must keep a copy of each exception report for at least three years after submitting the report.
  - E) A reverse distributor must keep records to document personnel training, in accordance with 35 Ill. Adm. Code 722.117(a)(7)(D).
  - F) All records must be readily available upon request by an Agency or USEPA inspector. The periods of retention referred to in this subsection (c)(10) are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested in writing by the Agency.
- d) When a Reverse Distributor Must Have a Permit. A reverse distributor is an operator of a hazardous waste treatment, storage, or disposal facility and is subject to the requirements of 35 Ill. Adm. Code 724, 725, and 727 and the permit requirements of 35 Ill. Adm. Code 703, if the reverse distributor does any of the following:
- 1) The reverse distributor fails to meet the conditions of this Section;
  - 2) The reverse distributor accepts manifested hazardous waste from off site;  
or
  - 3) The reverse distributor treats or disposes of hazardous waste pharmaceuticals on site.

(Source: Added at 44 Ill. Reg. 15427, effective September 3, 2020)