ILLINOIS POLLUTION CONTROL BOARD
November 7, 2024

IN THE MATTER OF:	)	
	)	
RCRA SUBTITLE C UPDATE, USEPA	)	R24-12
AMENDMENTS (July 1, 2023 through	)	(Identical-in-Substance Rulemaking - Land)
December 31, 2023)	)	
	)	

ADDENDUM

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: PERMITS

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 B: DEFINITIONS AND REFERENCES

Section
720.110 Definitions
720.111 References

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 R21-13 at 48 Ill. Reg. _____, effective _____; amended in R24-12 at 48 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

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

"Aboveground tank" means a device meeting the definition of tank that is situated so 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, like piping, fittings, flanges, valves, and pumps, that are 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 overall responsible for operating 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 connections (electrical and mechanical) that are 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 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 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 compliance 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., a permit to discharge to water or air) and may include 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 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 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 that 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 export.

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

"CRT processing" means conducting 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 according to 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 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 purpose 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 solid waste or hazardous waste or any of its constituent 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 that meets the following:

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 commenced construction if the owner or operator obtained the federal, State, and local approvals or permits necessary to begin physically constructing the facility and either of the following occurred:

A continuous on-site, physical construction program began; or

The owner or operator entered contractual obligations that could not be canceled or modified without substantial loss for physically constructing 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 RCRA 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 physically constructing the site or installing the tank system and if either of the following is met:

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

The owner or operator entered contractual obligations that cannot be canceled or modified without substantial loss for physically constructing the site or installing 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 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 completing 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 comprise 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).
>
> Despite 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 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 physically constructing " 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~~compliance 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 and 722.117.

"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 this definition, “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For 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 that:

Uses controlled flame combustion, and the device:

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

Is not listed as an industrial furnace; or

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 generator site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generator site, like a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generator 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 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 producing 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 device that 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 with any portion of the tank wall situated within the ground, so that the ground prevents visually inspecting that external surface area of the tank.

"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 installing 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 transporting 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 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 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 isolate 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 system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or comprise 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~~compliance 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 U.S.C. 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 reclaiming 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 for 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 whose bottom is situated on the same level as the adjacent surrounding surfaces so that visually inspecting the external tank bottom is not possible.

"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 combusting any material without the following characteristics:

Controlling combustion air to maintain adequate temperature for efficient combustion;

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

Controlling emission of the gaseous combustion products.
(See also “incineration” and “thermal treatment”.)

"Operator" means the person responsible for the overall operating 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 compliance 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 not complying 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~~ meets 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 U.S.C.U.S.C. 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 U.S.C. 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 U.S.C. 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 U.S.C. 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.

"Physical construction" or "physically constructing" (RCRA) means excavating, moving earth, erecting forms or structures, or similar activity to prepare an HWM facility for accepting hazardous waste.

"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 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 certification, or completing 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 registration as a professional engineer with the Department of Professional Regulation under 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes 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 U.S.C. 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 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 substantially all 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~~compliance 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 provided in "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~~meets 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-tetra-chlorodibenzo-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 temperature control device complying 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 transporting 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 transporting hazardous waste off-site 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 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 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 transporting universal waste off-site by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transporter" means a person engaged in transporting universal waste off-site 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 because of this 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 complying with section 3010 of RCRAU.S.C..

"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~~meets both of the following conditions:

The person or entity must 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 paper copy), in ~~accordance~~compliance 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 for transporting on the water.

"Wastewater treatment unit" means a device that:

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;

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

Meets the definition of tank or tank system in this Section.

"Water (bulk shipment) " means transporting bulk hazardous waste 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" means "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 detecting 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 48 Ill. Reg. _____, effective _____)

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

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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721.102 Definition of Solid Waste
721.103 Definition of Hazardous Waste
721.104 Exclusions
721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators (Repealed)
721.106 Requirements for Recyclable Materials
721.107 Residues of Hazardous Waste in Empty Containers
721.108 PCB Wastes Regulated under TSCA
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SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS AND CONTAINERS

Section

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

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39

Ill. Reg. 1607, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11367, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 21673, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 496, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 5884, effective May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15142, effective September 3, 2020; amended in R21-13 at 48 Ill. Reg. _____, effective _____; amended in R24-12 at 48 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.101 Purpose and Scope

a) This Part identifies those solid wastes that are subject to regulation as hazardous wastes under 35 Ill. Adm. Code 702, 703, and 722 through 728, and that ~~which~~ are subject to the notification requirements of ~~s~~Section 3010 of RCRA (42 USC 6930). In this Part:

1) Subpart A defines the terms "solid waste" and "hazardous waste", identifies those wastes that are excluded from regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and establishes special management requirements for hazardous waste ~~produced by VSQGs and hazardous waste~~ that is recycled.

2) Subpart B ~~sets forth~~specifies the criteria used to identify characteristics of hazardous waste and to list ~~particular~~ hazardous wastes.

3) Subpart C identifies characteristics of hazardous wastes.

4) Subpart D lists particular hazardous wastes.

b) Limitations on Definition of Solid Waste

1) The definition of solid waste contained in this Part applies only to wastes that also are hazardous for ~~purposes of~~ the regulations implementing Subtitle C of RCRA. For example, it does not apply to materials (like ~~such as~~ non-hazardous scrap, paper, textiles, or rubber) that are not otherwise hazardous wastes and that are recycled.

2) This Part identifies only some of the materials that are solid wastes and hazardous wastes under Sections 1004(5), 1004(27) and 7003 of RCRA. A material that is not defined as a solid waste in this Part, or is not a hazardous waste identified or listed in this Part, is still a hazardous waste ~~for purposes of~~under those Sections if, in the case of Section 7003 of RCRA, the statutory elements are established.

c) For ~~the purposes of~~ Sections 721.102 and 721.106, the following definitions apply:

1) A "spent material" is any material that has been used and because ~~as a result~~ of contamination can no longer serve the purpose for which it was produced without processing.

2) "Sludge" has the same meaning used in 35 Ill. Adm. Code 720.110.

3) A "by-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues like ~~such as~~ slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovering~~y~~ ~~of~~ lead values from spent batteries and regenerating ~~regeneration of~~ spent solvents. In addition, for ~~purposes of~~ Section 721.104(a)(23) and (a)(24) smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste ~~found~~ in 35 Ill. Adm. Code 726.200(d)(1) through (d)(3), and if the residuals meet the requirements specified in 35 Ill. Adm. Code 726.212.

5) A material is "used or reused" if ~~either of the following is true~~:

   A) It is employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not ~~satisfy~~meet this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

   B) It is employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment).

6) "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, or wire) or metal pieces that may be combined ~~together~~ with bolts or soldering (e.g., radiators, scrap automobiles, or railroad box cars) that when worn or superfluous can be recycled.

7) A material is "recycled" if it is used, reused, or reclaimed.

8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that, during the calendar year (commencing on January 1), the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Section 721.104(c) are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.

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

9) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

10) "Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes~~, but is not limited to,~~ scrap metal that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted)~~,~~ and fines, drosses, and related materials that have been agglomerated. (Note: shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (Section 721.104(a)(14))).

11) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries, like ~~such as~~ turnings, cuttings, punchings, and borings.

12) "Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries, and it includes ~~such~~ scrap metal like ~~as~~ turnings, cuttings, punchings, and borings. Prompt scrap metal is also known as industrial or new scrap metal.

d) The Agency has inspection authority under ~~pursuant to~~ Section 3007 of RCRA and Section 4 of the ~~Environmental Protection~~ Act.

e) 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: Subsection (e) is derived from 40 CFR 3, 271.10(b), 271.11(b), and 271.12(h) (2017).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.104 Exclusions

a) Materials That Are Not Solid Wastes. The following materials are not solid wastes for ~~the purpose of~~ this Part:

1) Sewage.

A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and

B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned ~~publicly-owned~~ treatment works for treatment, except as prohibited by 35 Ill. Adm. Code 726.605 and 40 CFR 403.5(b), incorporated by reference in 35 Ill. Adm. Code 720.111.

2) Industrial wastewater discharges that are point source discharges with ~~National Pollutant Discharge Elimination System (~~NPDES~~)~~ permits issued by the Agency under Section 12(f) of the Act and 35 Ill. Adm. Code 309. BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

3) Irrigation return flows.

4) Source, by-product, or special nuclear material, as defined by ~~s~~Section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.

6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).

7) Spent sulfuric acid used to produce virgin sulfuric acid, provided it is not accumulated speculatively, as defined in Section 721.101(c).

8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, if they are reused in the production process, provided that the following is true:

A) Only tank storage is involved, and the entire process through completing ~~completion of~~ reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

B) Reclamation does not involve controlled flame combustion (~~such as~~like that occuring~~s~~ in boilers, industrial furnaces, or incinerators);

C) The secondary materials are never accumulated in ~~such~~ tanks for over 12 months without being reclaimed; and

D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.

9) Wood preserving wastes.

A) Spent wood preserving solutions that have been used and that are reclaimed and reused for their original intended purpose;

B) Wastewaters from the wood preserving process that have been reclaimed and that are reused to treat wood; and

C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B), so long as they meet ~~all of~~ the following conditions:

i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;

ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

v) Prior to operating under this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets ~~all of~~ the conditions under subsection (a)(9)(C). If the plant does not comply ~~apply~~ ~~goes out of compliance~~ with any condition, it may apply to the Agency for reinstatement of the exclusion. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to complying ~~compliance~~ with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, ~~to~~ grant the reinstatement with conditions, or ~~to~~ terminate a reinstatement before the Board under Section 40 of the Act.

10) USEPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.

11) Nonwastewater splash condenser dross residue from the treatment of USEPA hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:

A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, ~~but not limited to,~~ distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), ~~provided that~~if the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), if the materials as generated would have otherwise met a listing under Subpart D, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.

B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A). Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry

practices, including refining, exploration and production, bulk storage, and transportation incident ~~thereto~~ (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.

13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

14) Shredded circuit boards being recycled~~,~~ if ~~provided that~~ they meet the following conditions:

A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and

B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.

15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

16) This subsection (a)(16) corresponds with 40 CFR 261.4(a)(16), marked "reserved" by USEPA. This statement maintains structural consistency with the federal regulations.

17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, ~~provided that~~if ~~the following is true~~:

A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

B) The spent material is not accumulated speculatively;

C) Except as provided in subsection (a)(17)(D), the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof that ~~all of which~~ are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors if ~~, provided~~

~~that~~ the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.

D) The Agency must allow by permit in writing that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.

i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have run-on and run-off controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.

iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.
BOARD NOTE: See Subpart D of 35 Ill. Adm. Code 703 for the RCRA Subtitle C permit public notice requirements.

E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

F) For ~~purposes of~~ subsection (b)(7), mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, if the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, if~~provided that both of the following conditions are true of the oil~~:

A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste number D018); and

B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which ~~all of~~ the ~~following is true~~: ~~its~~ primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic

chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).

20) Hazardous secondary materials used to make zinc fertilizers, if~~provided~~ that the following conditions are ~~satisfied~~met:

A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).

B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must ~~fulfill the following conditions~~:

i) ~~It must s~~Submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and that identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).

ii) ~~It must s~~Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that f~~ulfill~~ meet the conditions of subsection (a)(20)(F).

iii) With each off-site shipment of excluded hazardous secondary materials, ~~it must~~ provide written notice to the

receiving facility that the material is subject to the conditions of this subsection (a)(20).

iv) ~~It must~~ M~~m~~aintain records at the generator's or intermediate handler's facility, for ~~no less than~~at least three years, of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G).

C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must ~~fulfill the following conditions~~:

i) ~~It must s~~Store excluded hazardous secondary materials in ~~accordance~~ compliance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii).

ii) ~~It must s~~Submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and that identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).

iii) ~~It must m~~Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

iv) ~~It must s~~Submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.

D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any

person who generates a solid waste to determine if that waste is a hazardous waste.

E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to submitting ~~the submission of~~ the one-time notice described in subsection (a)(20)(B)(i), and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.

F) Storage areas where ~~A~~ containers ~~used to store excluded secondary material~~ are stored outdoors under subsection (a)(20)(B)(ii), must ~~fulfill the following conditions~~:

i) ~~It must h~~Have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;

ii) ~~It must p~~Provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and

iii) ~~It must p~~Prevent run-on into the containment system.

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

G) Required records of shipments of excluded hazardous secondary materials under subsection (a)(20)(B)(iv) must, at a minimum, contain the following information:

i) The name of the transporter and date of the shipment;

ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and

iii) The type and quantity of excluded secondary material in each shipment.

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

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

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

A) The fertilizers meet the following contaminant limits:

i) For metal contaminants:

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

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

B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals ~~no less frequently than~~at least once every six months, and for dioxins ~~no less frequently than~~ at least once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that ~~no~~ a constituent of concern is not present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

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

i) The dates and times product samples were taken, and the dates the samples were analyzed;

ii) The names and qualifications of the persons taking the samples;

iii) A description of the methods and equipment used to take the samples;

iv) The name and address of the laboratory facility at which analyses of the samples were performed;

v) A description of the analytical methods used, including any cleanup and sample preparation methods; and

vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).

22) Used CRTs

A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.

B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling~~,~~ if ~~provided that~~ they comply with ~~meets the requirements of~~ Section 721.140.

C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste~~,~~ if ~~provided that~~ they comply with ~~meet~~ the requirements of Section 721.139.

D) Glass removed from CRTs is not a solid waste if ~~provided that~~ it complies with ~~meets~~ the requirements of Section 721.139(c).

23) Hazardous Secondary Materials Reclaimed under the Control of the Generator. Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, ~~provided that~~if the material complies with subsections (a)(23)(A) and (a)(23)(B):

A) Excluded Hazardous Secondary Materials

i) The hazardous secondary material is generated and reclaimed at the generating facility. (For ~~purposes of~~ this subsection (a)(23)(A)(i), "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.);

ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in 35 Ill. Adm. Code 720.110, and if the generator provides one of the following certifications:

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

or

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

For ~~purposes of this~~ subsection (a)(23)(A)(ii), "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, cannot be deemed to "control" such facilities. The generating and receiving facilities must both maintain at their facilities, for no less than three years, records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations); or

iii) The hazardous secondary material is generated under a written contract between a tolling contractor and a toll

manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies as follows:

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

The tolling contractor must maintain at its facility, for ~~no less than~~at least three years, records of hazardous secondary materials received under its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility, for no less than three years, records of hazardous secondary materials shipped under its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations). For ~~purposes of~~ this subsection (a)(23)(A)(ii), "tolling contractor" means a person who arranges for producing ~~the production of~~ a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials under a written contract with a tolling contractor.

B) Management of Hazardous Secondary Materials

i) The hazardous secondary material is contained, as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded material

and a solid waste unless it is immediately recovered for ~~the purpose of~~ reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded material and a solid waste;

ii) The hazardous secondary material is not speculatively accumulated, as defined in Section 721.101(c)(8);

iii) Notice is provided, as required by 35 Ill. Adm. Code 720.142;

iv) The hazardous secondary material is not otherwise subject to material-specific management conditions under subsection (a) when reclaimed, and it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102);

v) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 35 Ill. Adm. Code 720.143(a) and how the factor in 35 Ill. Adm. Code 720.143(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and

vi) The emergency preparedness and response requirements found in Subpart M are met.

24) Hazardous Secondary Materials Transferred for Off-Site Reclamation. Hazardous secondary material that is generated and then transferred to another person for ~~the purpose of~~ reclamation is not a solid waste if the management of the material ~~fulfills~~ meets the conditions of subsections (a)(24)(A) through (a)(24)(G):

A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.101(c)(8).

B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the hazardous secondary material must not be stored for more than ten days at a transfer facility, as defined in Section 721.110; and the hazardous secondary material must be packaged according to applicable USDOT regulations codified as

49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.

C) The hazardous secondary material must not otherwise be subject to material-specific management conditions under other provisions of this subsection (a) when reclaimed, and the hazardous secondary material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102).

D) Reclaiming ~~The reclamation of~~ the hazardous secondary material must be legitimate, as determined under 35 Ill. Adm. Code 720.143.

E) The hazardous secondary material generator must ~~satisfy~~meet each of the following conditions:

i) The hazardous secondary material must be contained as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for ~~the purpose of~~ recycling. Hazardous secondary material managed in a unit that leaks or that otherwise continuously releases hazardous secondary material is discarded material and a solid waste.

ii) Prior to arranging for transport of hazardous secondary materials to a reclamation facility where the hazardous secondary material is managed in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will pass through an intermediate facility where the hazardous secondary materials is managed at that facility in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary

material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must affirmatively answer ~~all of~~ the questions in subsection (a)(24)(H) for each reclamation facility and any intermediate facility. BOARD NOTE: The Board moved the required generator inquiries of 40 CFR 261.4(a)(24)(v)(B)(*1*) through (a)(24)(v)(B)(*5*) to subsection (a)(24)(H) to comply with codification requirements.

iii) The hazardous secondary material generator must maintain for a minimum of three years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the facility manages the hazardous secondary materials in a unit that is not subject to a RCRA permit or interim status standards prior to transferring hazardous secondary material. Documentation and certification must be made available upon request by USEPA or the Agency within 72 hours, or within a longer period ~~of time~~ as specified by USEPA or the Agency. The certification statement must include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed. The certification statement must also incorporate the following language:

> "I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to [insert name(s) of reclamation facility and any intermediate facility], reasonable efforts were made in ~~accordance~~compliance with 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment,

and that such efforts were based on current and accurate information."

BOARD NOTE: The Board combined the documentation, certification, and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(C)(*1*) through (a)(24)(v)(C)(*3*) into subsection (a)(24)(E)(iii) to comply with codification requirements.

iv) The hazardous secondary material generator must maintain certain records at the generating facility for a minimum of three years that document every off-site shipment of hazardous secondary materials. The documentation for each shipment must, at a minimum, include the following information about the shipment: the name of the transporter and date of the shipment; the name and address of each reclaimer and intermediate facility to which the hazardous secondary material was sent; and the type and quantity of hazardous secondary material in the shipment. BOARD NOTE: The Board combined and moved the shipping documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(C) and (a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) to this single subsection (a)(24)(E)(iv). This combination allowed complying ~~compliance~~ with codification requirements relating to the maximum permissible indent level.

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

vi) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in Subpart M.

BOARD NOTE: The Board intends that "RCRA permit" in subsections (a)(24)(E)(ii) and (a)(24)(E)(iii) include a permit issued by USEPA or a sister state under section 3005 of RCRA (42 USC 6925).

F) The reclaimer of hazardous secondary material or any intermediate facility, as defined in 35 Ill. Adm. Code 720.110, that manages material that is excluded from regulation under this subsection (a)(24) must ~~satisfy~~meet~~all of~~ the following conditions:

i) The owner or operator of a reclamation or intermediate facility must maintain at its facility for a minimum of three years records of every shipment of hazardous secondary material that the facility received and, if applicable, for every shipment of hazardous secondary material that the facility received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, contain the following information: the name of the transporter and date of the shipment; the name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility from which the facility received the hazardous secondary materials; the type and quantity of hazardous secondary material in the shipment; and, for hazardous secondary materials that the facility subsequently transferred off-site for further reclamation after receiving it, the name and address of the (subsequent) reclaimer and any intermediate facility to which the facility sent the hazardous secondary material.
BOARD NOTE: The Board combined the provisions from 40 CFR 261.4(a)(24)(vi)(A) and (a)(24)(vi)(A)(1) through (a)(24)(vi)(A)(3) that enumerate the required information into this single subsection (a)(24)(F)(i). This combination allowed complying ~~compliance~~ with codification requirements relating to the maximum permissible indent level.

ii) The intermediate facility must send the hazardous secondary material to the reclaimers designated by the generator of the hazardous secondary materials.

iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must

include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may ~~satisfy~~meet ~~meet~~ this requirement using routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations of receipt).

iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An "analogous raw material" is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.

v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C, or if the residuals themselves are specifically listed as hazardous waste in Subpart D, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in ~~accordance~~compliance with the applicable requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.

vi) The reclaimer and intermediate facility must have financial assurance that complies with ~~satisfies the requirements of~~ Subpart H.

G) In addition, any person claiming the exclusion for recycled hazardous secondary material under this subsection (a)(24) must provide notification as required by 35 Ill. Adm. Code 720.142.

H) For ~~the purposes of~~ the reasonable inquiries required by subsection (a)(24)(E)(ii), the hazardous secondary material generator must affirmatively answer ~~all of~~ the following questions for each reclamation facility and any intermediate facility:

i) Does the available information indicate that the reclamation process is legitimate under 35 Ill. Adm. Code 720.143? In answering this question, the hazardous secondary material generator can rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.

ii) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities under 35 Ill. Adm. Code 720.142, and have they notified the appropriate authorities that the financial assurance condition is satisfied per subsection (a)(24)(F)(vi)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's complying ~~compliance~~ with the notification requirements per 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify USEPA or the Agency whether the reclaimer or intermediate facility has financial assurance.

iii) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has not been classified as a significant noncomplier with RCRA Subtitle C? In answering this question, the hazardous secondary material generator can rely on the publicly available information from USEPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has been classified as a significant non-complier with RCRA Subtitle C, does the hazardous secondary material generator have credible evidence that the facility will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material

generator can obtain additional information from USEPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

iv) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

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

BOARD NOTE: The Board moved the required generator inquiries into a reclamation or intermediate facility of 40 CFR 261.4(a)(24)(v)(B) and (a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to this subsection (a)(24)(H) to comply with codification requirements.

25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) and (a)(24)(H) (excepting subsection (a)(24)(H)(ii) for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements:

A) The generator must notify USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the hazardous secondary material generator, and include the following information:

i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;

ii) A description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste and the USDOT proper shipping name, hazard class and identification number (UN or NA) for each hazardous secondary material as identified in the hazardous materials table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;

iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period ~~of time~~ over which the hazardous secondary material is to be exported;

iv) The estimated total quantity of hazardous secondary material;

v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;

vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.), etc.);

vii) A description of how ~~the manner in which~~ the hazardous secondary material will be reclaimed in the country of import;

viii) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and

ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for ~~purposes of~~ this Section, the terms "USEPA Acknowledgement of Consent", "country of import", and "country of transit" are used as defined in 35 Ill. Adm. Code 722.181 with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).

B) The generator must submit notifications electronically using USEPA's Waste Import Export Tracking System (WIETS).

C) Except for changes to the telephone number required in subsection (a)(25)(A)(i) and decreases in the quantity of hazardous secondary material indicated under subsection (a)(25)(A)(iv), when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide USEPA with a written renotification of the change. The shipment must not occur until consent of the country of import to the changes (except for changes to subsection (a)(25)(A)(ix) and in the ports of entry to and departure from countries of transit under subsection (a)(25)(A)(v)) has been obtained and the hazardous secondary material generator receives from USEPA a USEPA Acknowledgment of Consent reflecting the country of import's consent to the changes.

D) Upon request by USEPA, the hazardous secondary material generator must furnish to USEPA any additional information that a country of import requests ~~in order~~ to respond to a notification.

E) USEPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when USEPA receives a notification that USEPA determines complies with ~~satisfies the requirements of~~ subsection (a)(25)(A). When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A), USEPA may find the notification not complete until any such claim is resolved in ~~accordance~~compliance with 35 Ill. Adm. Code 720.102.

F) The export of hazardous secondary material under this subsection (a)(25) is prohibited unless ~~the country of import consents to the intended export. When the country of import consents in writing to the receipt of the~~ the hazardous secondary material generator receives from~~,~~ USEPA ~~will send~~ an USEPA Acknowledgment of Consent documenting the consent of the country of import to the receipt of hazardous secondary material ~~generator~~. When the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA will notify the hazardous secondary material generator in writing. USEPA will also notify the hazardous secondary material generator of any responses from countries of transit.

G) For exports to OECD member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided under subsection (a)(25)(A) within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, USEPA will send a USEPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.

H) A copy of the USEPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the USEPA Acknowledgment of Consent.

I) If the shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in ~~accordance~~compliance with subsection (a)(25)(C) ~~of this Section~~ and obtain another USEPA Acknowledgment of Consent.

J) Hazardous secondary material generators must keep a copy of each notification of intent to export and each USEPA Acknowledgment of Consent for a period of three years following receipt of the USEPA Acknowledgment of Consent. They may ~~satisfy~~meet this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in

their account on USEPA's WIETS, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this Section if it can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with USEPA's WIETS for which the hazardous secondary material generator bears no responsibility.

K) Hazardous secondary material generators must file with USEPA, no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using USEPA's WIETS. Such reports must include the following information:

i) Name, mailing and site address, and USEPA identification number (if applicable) of the hazardous secondary material generator;

ii) The calendar year covered by the report;

iii) The name and site address of each reclaimer and intermediate facility;

iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste; the USDOT hazard class, incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (if applicable) for each transporter used, the consent number(s) under which the hazardous secondary material was shipped and for each consent number(s) the total amount of hazardous secondary material shipped~~the total amount of hazardous secondary material shipped~~, and the number of shipments during the calender year covered by the report~~under each notification~~; and

v) A certification signed by the hazardous secondary material generator that states as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached

documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

L) Any person claiming an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.

26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation if~~, provided that all of~~ the following conditions are ~~fulfilled~~met:

A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;

D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;

E) Generators must maintain at their site the following documentation:

i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and

iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and

F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA under 33 USC 1311 through 1346 and 1370.

27) Hazardous secondary material that is generated and then transferred to another person for ~~the purpose of~~ remanufacturing is not a solid waste, provided that the following conditions are ~~fulfilled~~met:
BOARD NOTE: The North American Industrial Classification System (NAICS) codes used in this subsection (a)(27) are defined in the NAICS Manual, available from the Office of Management and Budget and incorporated by reference in 35 Ill. Adm. Code 720.111.

A) The hazardous secondary material consists of one or more of the following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloro-methane, methyl isobutyl ketone, N,N-dimethylformamide, tetra-hydrofuran, n-butyl alcohol, ethanol, or methanol.

B) The hazardous secondary material originated from using one or more of the solvents listed in subsection (a)(27)(A) in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).

C) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in subsection (a)(27)(A) to

a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).

D) After remanufacturing one or more of the solvents listed in subsection (a)(27)(A), the use of the remanufactured solvent must be limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated in 40 CFR 711.15(b)(4)(i)(C) (Reporting Information to EPA), incorporated by reference in 35 Ill. Adm. Code 720.111, including Industrial Function Category Codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents that become part of the mixture). BOARD NOTE: The Board observes that the citation to Toxic Substances Control Act function categories and use of the word "including" to preface specific example Industrial Function Category Codes does not expand the range of permissible uses beyond the express limitations recited in the first segment of this subsection (a)(27)(D) and subsection (a)(27)(E).

E) After remanufacturing one or more of the solvents listed in subsection (a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Category Code U029 (solvents (for cleaning and degreasing)) in 40 CFR 711.15(b)(4)(i)(C), incorporated by reference in 35 Ill. Adm. Code 720.111.

F) Both the hazardous secondary material generator and the remanufacturer must ~~fulfill~~ meet the following requirements:

i) The generator and remanufacturer must notify USEPA Region 5 and the Agency, and update the notification every two years per 35 Ill. Adm. Code 720.142;

ii) The generator and remanufacturer must develop and maintain an up-to-date remanufacturing plan that identifies the information enumerated in subsection (a)(27)(G);

BOARD NOTE: The Board moved corresponding 40 CFR 261.4(a)(27)(vi)(B)(*1*) through (a)(27)(vi)(B)(*1*) to appear as subsections (a)(27)(G)(i) through (a)(27)(G)(v) to comport with codification requirements.

iii) The generator and remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;

iv) The generator and remanufacturer must, prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Subparts I and J, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;

v) The generator and remanufacturer must, during remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls complying ~~compliance~~ with the applicable Clean Air Act regulations of 40 CFR 60, 61 and 63, incorporated by reference in 35 Ill. Adm. Code 720.111; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are complying ~~in compliance~~ with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage); and

vi) The generator and remanufacturer must meet the requirements prohibiting speculative accumulation in Section 721.101(c)(8).

G) The following information items are required elements for a remanufacturing plan.

i) The name, address and USEPA ID number of the generators and the remanufacturers;

ii) The types and estimated annual volumes of spent solvents to be remanufactured;

iii) The processes and industry sectors that generate the spent solvents;

iv) The specific uses and industry sectors for the remanufactured solvents; and

v) A certification from the remanufacturer stating as follows: "On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent(s) solely for ~~the sole purpose of~~ remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls complying ~~in compliance~~ with the appropriate Clean Air Act regulations under 40 CFR 60, 61 or 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, comply ~~are in compliance~~ with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage)."

BOARD NOTE: Subsections (a)(27)(G)(i) through (a)(27)(G)(v) correspond with 40 CFR 261.4(a)(27)(vi)(B)(*1*) through (a)(27)(vi)(B)(*1*), moved to this subsection (a)(27)(G) to comport with codification requirements.

b) Solid Wastes That Are Not Hazardous Wastes. The following solid wastes are not hazardous wastes:

1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for ~~the purposes of~~ regulation under this Part, if the following describe the facility:

A) The facility receives and burns only the following waste:

i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or

ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and

B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

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

2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:

A) The growing and harvesting of agricultural crops; or

B) The raising of animals, including animal manures.

3) Mining overburden returned to the mine site.

4) Coal and Fossil Fuel Combustion Waste

A) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from combusting ~~the combustion of~~ coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

B) The following wastes generated primarily from processes that support combusting ~~the combustion of~~ coal or other fossil fuels that are co-disposed with the wastes in subsection (b)(4)(A), except as provided by 35 Ill. Adm. Code 726.112 for facilities that burn or process hazardous waste:

i) Coal Pile Run-Off. For ~~purposes of~~ this subsection (b)(4), "coal pile run-off" means any precipitation that drains off coal piles.

ii) Boiler Cleaning Solutions. For ~~purposes of~~ this subsection (b)(4), "boiler cleaning solutions" means water solutions and chemical solutions used to clean the fire-side and waterside of the boiler.

iii) Boiler Blowdown. For ~~purposes of~~ this subsection (b)(4), "boiler blowdown" means water purged from boilers used to generate steam.

iv) Process Water Treatment and Demineralizer Regeneration Wastes. For ~~purposes of~~ this subsection (b)(4), "process water treatment and demineralizer regeneration wastes" means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.

v) Cooling Tower Blowdown. For ~~purposes of~~ this subsection (b)(4), "cooling tower blowdown" means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.

vi) Air Heater and Precipitator Washes. For ~~purposes of~~ this subsection (b)(4), "air heater and precipitator washes" means wastes from cleaning air preheaters and electrostatic precipitators.

vii) Effluents from Floor and Yard Drains and Sumps. For ~~purposes of~~ this subsection (b)(4), "effluents from floor and yard drains and sumps" means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain run-off, collected by yard drains and sumps located outside the power plant building.

viii) Wastewater Treatment Sludges. For ~~purposes of~~ this subsection (b)(4), "wastewater treatment sludges" refers to sludges generated from the treatment of wastewaters specified in subsections (b)(4)(B)(i) through (b)(4)(B)(vi).

5) Drilling fluids, produced waters, and other wastes associated with the exploring, developing, ~~exploration, development,~~ or producing ~~production of~~ crude oil, natural gas, or geothermal energy.

6) Chromium Wastes

A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B) because chromium is present or that are listed in Subpart D due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or that are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:

i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;

ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

iii) The waste is typically and frequently managed in non-oxidizing environments.

B) The following are specific wastes that meet the standard in subsection (b)(6)(A) (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):

i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;

iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;

vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and

viii) Wastewater treatment sludges from producing ~~the production of~~ titanium dioxide pigment using chromium-bearing ores by the chloride process.

7) Solid waste from extracting, beneficiating, ~~the extraction, beneficiation,~~ and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

A) For ~~purposes of~~ this subsection (b)(7), beneficiating ~~beneficiation of~~ ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except if the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

B) For the ~~purposes of~~ this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

i) Slag from primary copper processing;

ii) Slag from primary lead processing;

iii) Red and brown muds from bauxite refining;

iv) Phosphogypsum from phosphoric acid production;

v) Slag from elemental phosphorus production;

vi) Gasifier ash from coal gasification;

vii) Process wastewater from coal gasification;

viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;

ix) Slag tailings from primary copper processing;

x) Fluorogypsum from hydrofluoric acid production;

xi) Process wastewater from hydrofluoric acid production;

xii) Air pollution control dust or sludge from iron blast furnaces;

xiii) Iron blast furnace slag;

xiv) Treated residue from roasting and leaching of chrome ore;

xv) Process wastewater from primary magnesium processing by the anhydrous process;

xvi) Process wastewater from phosphoric acid production;

xvii) Basic oxygen furnace and open-hearth furnace air pollution control dust or sludge from carbon steel production;

xviii) Basic oxygen furnace and open-hearth furnace slag from carbon steel production;

xix) Chloride processing waste solids from titanium tetrachloride production; and

xx) Slag from primary zinc production.

C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are ~~fulfilled~~met:

i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and

ii) The owner or operator legitimately reclaims the secondary mineral processing materials.

8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.

9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for USEPA hazardous waste numbers D004 through D017 and that is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.

10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (USEPA hazardous waste numbers D018 through D043 only) and that are subject to corrective action regulations under 35 Ill. Adm. Code 731.

11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.

12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D, if these oil filters have been gravity hot-drained using one of the following methods:

A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

B) Hot-draining and crushing;

C) Dismantling and hot-draining; or

D) Any other equivalent hot-draining method that will remove used oil.

14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:

A) The following conditions must be ~~fulfilled~~met:

i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

USEPA Hazardous Waste Numbers	Listing Effective Date
K169, K170, K171, and K172	February 8, 1999
K174 and K175	May 7, 2001
K176, K177, and K178	May 20, 2002
K181	August 23, 2005

ii) The solid wastes described in subsection (b)(15)(A)(i) were disposed of prior to the effective date of the listing (as provided ~~set forth~~ in that subsection);

iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and

iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a

POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).

B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, K178, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed complying ~~in compliance~~ with the conditions of this subsection (b)(15) after the emergency ends.

16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved". This statement maintains structural parity with USEPA regulations.

17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.

18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation if ~~provided that all of~~ the following conditions are ~~fulfilled~~met:

A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;

C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;

D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;

E) Generators must maintain at their site the following documentation:

i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and

iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and

F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:

i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved under 42 USC 6943 and 6947; or

ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved under 42 USC 6926; or

iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA under 42 USC 7429; or

iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved under 42 USC 6926.

c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transporting ~~transportation of~~ product or raw materials.

d) Samples

1) Except as provided in subsections (d)(2) and (d)(4), a sample of solid waste or a sample of water, soil, or air that is collected solely for ~~the sole purpose of~~ testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it ~~fulfills~~meets one of the following conditions:

A) The sample is being transported to a laboratory for ~~the purpose of~~ testing;

B) The sample is being transported back to the sample collector after testing;

C) The sample is being stored by the sample collector before transport to a laboratory for testing;

D) The sample is being stored in a laboratory before testing;

E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or

F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action if further testing of the sample may be necessary).

2) To ~~in order to~~ qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:

A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or

B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and

ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.

3) This exemption does not apply if the laboratory determines that the waste is hazardous, but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1).

4) To ~~In order to~~ qualify for the exemption in subsections (d)(1)(A) and (d)(1)(B), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.

e) Treatability Study Samples

1) Except as ~~is~~ provided in subsections (e)(2) and (e)(4), a person that generates or collects samples for ~~the purpose of~~ conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of RCRA (42 USC 6930). Nor are such samples included in the quantity determinations of 35 Ill. Adm. Code 722.114 and 722.116 when:

A) The sample is being collected and prepared for transportation by the generator or sample collector;

B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

C) The sample is being transported to the laboratory or testing facility for ~~the purpose of~~ conducting a treatability study.

2) The exemption in subsection (e)(1) is applicable to samples of hazardous waste being collected and shipped for ~~the purpose of~~ conducting treatability studies provided that the following conditions are ~~fulfilled~~met:

A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;

B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;

C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and ~~the requirements of~~ subsection (e)(2)(C)(i) or (e)(2)(C)(ii) are met.

i) Transporting ~~The transportation of~~ each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or

ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;

D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f), or has an appropriate RCRA permit or interim status;

E) The generator or sample collector maintains the following records for a period ending three years after completing ~~completion of~~ the treatability study:

i) Copies of the shipping documents;

ii) A copy of the contract with the facility conducting the treatability study; and

iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and

F) The generator reports the information required in subsection (e)(2)(E)(iii) in its report under 35 Ill. Adm. Code 722.141.

3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4), for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances ~~set forth~~ in either subsection (e)(3)(A) or (e)(3)(B), subject to the limitations of subsection (e)(3)(C):

A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.

B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiating ~~initiation~~ or completing ~~completion of~~ initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluating ~~evaluation of~~ an ongoing treatability study to determine final specifications for treatment.

C) The additional quantities and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F). The generator or sample collector must apply to the Agency and provide in writing the following information:

i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;

iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

v) Such other information as the Agency determines is necessary.

4) To ~~In order to~~ qualify for the exemption in subsection (e)(1)(A), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed 25 kg.

5) Final Agency determinations under this subsection (e) may be appealed to the Board.

f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification

requirements of section 3010 of RCRA (42 USC 6930), provided that the owner or operator complies with ~~requirements of~~ subsections (f)(1) through (f)(11) ~~are met~~. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).

2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.

3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiating ~~initiation of~~ treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

4) The quantity of "as received" hazardous waste stored at the facility for ~~the purpose of~~ evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.

5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

7) The facility maintains records for three years following completing ~~completion of~~ each study that show complying ~~compliance~~ with the

treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;

B) The date the shipment was received;

C) The quantity of waste accepted;

D) The quantity of "as received" waste in storage each day;

E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

F) The date the treatability study was concluded;

G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.

8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:

A) The name, address, and USEPA identification number of the facility conducting the treatability studies;

B) The types (by process) of treatability studies conducted;

C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);

D) The total quantity of waste in storage each day;

E) The quantity and types of waste subjected to treatability studies;

F) When each treatability study was conducted; and

G) The final disposition of residues and unused sample from each treatability study.

10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e).

11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.

g) Dredged Material That Is Not a Hazardous Waste. Dredged material that is subject to ~~the requirements of~~ a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For t~~he purpose~~s ~~of~~ this subsection (g), the following definitions apply:

"Dredged material" has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

"Permit" means any of the following:

A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control Act (33 USC 1344);

A permit issued by the Army Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413);

or

In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

h) Carbon Dioxide Stream Injected for Geologic Sequestration. Carbon dioxide streams that are captured and transported for ~~the purpose~~ ~~purposes of~~ injecti**ng**~~on~~ into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, ~~provided~~ if the following conditions are met:

1) Transporting ~~Transportation of~~ the carbon dioxide stream must comply ~~be in compliance~~ with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations

(49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority under a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable;
BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway, or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

2) Injecting ~~Injection of~~ the carbon dioxide stream must comply with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;

3) No hazardous wastes may be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

4) Required Certifications

A) Any generator of a carbon dioxide stream, that ~~who~~ claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream complying ~~in compliance~~ with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream complying ~~in compliance~~ with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 USC 60101 et seq.) and regulations (49 CFR Parts 190 through 199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.)."

B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative

(as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

> "I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the UIC Class VI permitted facility, and that injecting ~~injection of~~ the carbon dioxide stream complies ~~is in compliance~~ with the applicable requirements for UIC Class VI wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730."

C) The signed certification statement must be kept on-site, for no less than three years, and must be made available within 72 hours after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility's publicly available ~~publicly-available~~ website (if such website exists) as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

i) This subsection corresponds with 40 CFR 261.4(i), which USEPA marked "Reserved". This statement maintains structural consistency with the federal regulation.

j) Airbag Waste

1) At the airbag waste handler or during transport to an airbag waste collection facility or designated facility, airbag waste is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 and is not subject to the notification requirements of section 3010 of RCRA provided that the airbag waste handler or transporter ~~fulfills~~meets the following conditions:

A) The airbag waste handler or transporter accumulates the airbag waste in a quantity of no more than 250 airbag modules or airbag inflators for no longer than 180 days;

B) The airbag waste handler or transporter packages the airbag waste in a container designed to address the risk posed by

the airbag waste and labeled "Airbag Waste—Do Not Reuse";

C) The airbag waste handler or transporter sends the airbag waste directly to either of the following facilities:

i) An airbag waste collection facility in the United States that is under the control of a vehicle manufacturer or its authorized representative or that is under the control of a person authorized to administer a remedy program in response to a vehicle safety recall under 49 USC 30120; or

ii) A designated facility, as defined in 35 Ill. Adm. Code 720.110;

D) The transport of the airbag waste complies with all applicable USDOT regulations in 49 CFR 171 through 180 during transit; and

E) The airbag waste handler maintains at the handler facility, for ~~no less than~~at least three years, records of each off-site shipment of airbag waste and each confirmation of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter, the date of the shipment, the name and address of the receiving facility, and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. A confirmation of receipt must include the name and address of the receiving facility, the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received, and the date when the airbag waste collection facility received the airbag waste. The airbag waste handler must make shipping records and confirmations of receipt available for inspection and may ~~satisfy~~meet this requirement using routine business records (e.g., electronic or paper financial records, bills of lading, copies of USDOT shipping papers, electronic confirmations of receipt, etc.).

2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations. The facility receiving airbag waste is considered the hazardous waste generator for ~~the purposes of~~ the hazardous waste regulations and must comply with ~~the requirements of~~ 35 Ill. Adm. Code 722.

3) Reuse in vehicles of defective airbag modules or defective airbag inflators that are subject to a recall under 49 USC 30120 is considered sham recycling and prohibited under 35 Ill. Adm. Code 721.102(g).

BOARD NOTE: This precludes any possibility that reuse qualifies for recycling-based exclusion from the definition of solid waste. Federal law prohibits selling defective recalled motor vehicle equipment if it may reasonably be used for its original purpose. (See 42 USC 30120(j).)

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.106 Requirements for Recyclable Materials

a) Recyclable Materials

1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsections (b) and (c), except for the materials listed in subsections (a)(2) and (a)(3). Hazardous wastes that are recycled will be known as "recyclable materials".

2) The following recyclable materials are not subject to ~~the requirements of~~ this Section but are regulated under Subparts C through H of 35 Ill. Adm. Code 726 and all applicable provisions in 35 Ill. Adm. Code 702, 703, and 728.

A) Recyclable materials used in a manner constituting disposal (see Subpart C of 35 Ill. Adm. Code 726);

B) Hazardous wastes burned (as defined in 35 Ill. Adm. Code 726.200(a)) in boilers and industrial furnaces that are not regulated under Subpart O of 35 Ill. Adm. Code 724 or Subpart O (see Subpart H of 35 Ill. Adm. Code 726);

C) Recyclable materials from which precious metals are reclaimed (see Subpart F of 35 Ill. Adm. Code 726); and

D) Spent lead-acid batteries that are being reclaimed (see Subpart G of 35 Ill. Adm. Code 726).

3) The following recyclable materials are not subject to regulation under 35 Ill. Adm. Code 722 through 728, or 702 and 703 and are not subject to the notification requirements of section 3010 of RCRA (42 USC 6930):

A) Industrial ethyl alcohol that is reclaimed except that exports and imports of thisese ~~such~~ recyclable material~~s~~ must comply with ~~the requirements of~~ 40 CFR 262, subpart H.

B) Scrap metal that is not excluded under Section 721.104(a)(13);

C) Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if these ~~such~~ wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste if the ~~where such~~ recovered oil is already excluded under Section 721.104(a)(12));

D) Petroleum Refining Wastes

i) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices or produced from oil reclaimed from the ~~such~~ hazardous wastes, if these ~~where such~~ hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil, so long as the resulting fuel meets the used oil specification under 35 Ill. Adm. Code 739.111 and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

ii) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, if the ~~where such~~ hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under 35 Ill. Adm. Code 739.111; and

iii) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under 35 Ill. Adm. Code 739.111.

4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to ~~the requirements of~~ 35 Ill. Adm. Code 720 through 728, but it is regulated under 35 Ill. Adm. Code 739. Used oil that is recycled includes any used oil that is reused for

any purpose following its original use (including the purpose for which the oil was originally used). This ~~Such~~ term includes~~, but is not limited to,~~ oil that is re-refined, reclaimed, burned for energy recovery, or reprocessed.

5) Hazardous waste that is exported or imported for ~~the purpose of~~ recovery is subject to ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code 722.

b) Generators and transporters of recyclable materials are subject to the applicable requirements of 35 Ill. Adm. Code 722 and 723 and the notification requirements under section 3010 of RCRA (42 USC 6930), except as provided in subsection (a).

c) Storage and Recycling

1) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of Subparts A through L, AA through DD~~, BB, and CC~~ of 35 Ill. Adm. Code 724 and 725 and 35 Ill. Adm. Code 702, 703, 705, 726, 727, and 728; and the notification requirement under section 3010 of RCRA (42 USC 6930), except as provided in subsection (a). (The recycling process itself is exempt from regulation, except as provided in subsection (d).)

2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in subsection (a)~~, the following requirements continue to apply~~:

A) Notification requirements under section 3010 of RCRA (42 USC 6930);

B) 35 Ill. Adm. Code 725.171 and 725.172 (dealing with the use of the manifest and manifest discrepancies);

C) Subsection (d); and

D) 35 Ill. Adm. Code 725.175 (annual reporting requirements).

d) Owners or operators of facilities required to have a RCRA permit under ~~pursuant to~~ 35 Ill. Adm. Code 703 with hazardous waste management units that recycle hazardous wastes are subject to Subparts AA and BB of 35 Ill. Adm. Code 724 or 725 or 35 Ill. Adm. Code 267.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART B: CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTES

Section 721.111 Criteria for Listing Hazardous Waste

a) USEPA stated in corresponding federal 40 CFR 261.11 that it lists a solid waste as a hazardous waste only upon determining that the solid waste meets one of the following criteria:

1) The solid waste exhibits any of the characteristics of hazardous waste identified in Subpart C; or

2) Acute hazardous waste. The solid waste has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity (rat) of less than 50 mg/kg, an inhalation LC 50 toxicity (rat) of less than 2 mg/ℓ, or a dermal LD 50 toxicity (rabbit) of less than 200 mg/kg or is otherwise capable of causing or significantly contributing to an increase in serious irreversible or incapacitating reversible, illness.

BOARD NOTE: Waste listed ~~in accordance with these criteria~~under subsection (a)(2) are designated Acute Hazardous Waste.

3) Toxic Waste. The solid waste contains any of the toxic constituents listed in Appendix H and, after considering the following factors, USEPA concludes that the waste is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed:

BOARD NOTE: Substances are listed in Appendix H only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms.

A) The nature of the toxicity presented by the constituent;

B) The concentration of the constituent in the waste;

C) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in subsection (a)(3)(G);

D) The persistence of the constituent or any toxic degradation product of the constituent;

E) The potential for the constituent or any toxic degradation product of the constituent to degrade into nonharmful constituents and the rate of degradation;

F) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems;

G) The plausible types of improper management to which the waste could be subjected;

H) The quantities of the waste generated at individual generator ~~generation~~ sites or on a regional or national basis;

I) The nature and severity of the human health and environmental damage that has occurred because ~~as a result~~ of the improper management of the wastes containing the constituent;

J) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent; and

K) ~~Such o~~Other factors as may be appropriate.

BOARD NOTE: Wastes listed ~~in accordance~~under subsection (a)(3) ~~with these criteria~~ are designated toxic wastes.

b) USEPA stated in corresponding federal 40 CFR 261.11(b) that it may list classes or types of solid waste as hazardous waste if USEPA has reason to believe that individual wastes, within the class or type of waste, typically or frequently are hazardous under the definition of hazardous waste found in section 1004(5) of RCRA (42 USC 6904(5)).

~~c) USEPA will use the criteria for listing specified in this Section to establish the exclusion limits referred to in 35 Ill. Adm. Code 722.113.~~

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART D: LISTS OF HAZARDOUS WASTE

Section 721.130 General

a) A solid waste is a hazardous waste if it is listed in this Subpart D~~,~~ unless it has been excluded from this list under ~~pursuant to~~ 35 Ill. Adm. Code 720.120 and 720.122.

b) The basis for listing the classes or types of wastes listed in this Subpart D is indicated by employing one or more of the following hazard codes:

1) Hazard Codes.

A)	Ignitable waste	(I)
B)	Corrosive waste	(C)
C)	Reactive waste	(R)
D)	Toxicity Characteristic waste	(E)
E)	Acute hazardous waste	(H)
F)	Toxic waste	(T)

2) Appendix G identifies the constituent that caused ~~the Administrator~~USEPA to list the waste as a toxicity characteristic waste (E) or toxic waste (T) in Sections 721.131 and 721.132.

c) Each hazardous waste listed in this Subpart D is assigned a USEPA hazardous waste number that precedes the name of the waste. This number must be used in complying with the federal notification requirements of section 3010 of RCRA (42 USC 6930) and certain recordkeeping and reporting requirements under 35 Ill. Adm. Code 702, 703, and 722 through 725, 727, and 728.

d) The following hazardous wastes listed in Section 721.131 or 721.132 are subject to the generator category limits ~~exclusion limits~~ for acute hazardous wastes established in 35 Ill. Adm. Code 722.113(g) ~~722.114~~: hazardous wastes numbers F020, F021, F022, F023, F026, and F027.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART H: FINANCIAL REQUIREMENTS FOR MANAGEMENT OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

Section 721.242 Cost Estimate

a) The owner or operator of a reclamation or intermediate facility must have a detailed written estimate, in current dollars, of the cost of disposing of any hazardous secondary material as listed or characteristic hazardous waste, and the potential cost of closing the facility as a treatment, storage, and disposal facility.

1) The estimate must equal the cost of conducting the activities described in this subsection (a) at the point when the extent and manner of the facility's operation would make these activities the most expensive.

2) The cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct these activities. A third party is a party that ~~who~~ is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in 35 Ill. Adm. Code 725.241(d).) The owner or operator may use costs for on-site disposal in ~~accordance~~ compliance with applicable requirements if the owner or operator can demonstrate that on-site disposal capacity will always exist ~~at all times~~ over the life of the facility.

3) The cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous secondary materials, or hazardous ~~waste~~or non-hazardous wastes (if permitted by the Agency under ~~pursuant to~~ 35 Ill. Adm. Code 725.213(d)), facility structures or equipment, land, or other assets associated with the facility.

4) The owner or operator may not incorporate a zero cost for hazardous secondary materials, or hazardous ~~waste,~~or non-hazardous wastes (if permitted by the Agency under ~~pursuant to~~ 35 Ill. Adm. Code 725.213(d)) that might have economic value.

b) During the active life of the facility, the owner or operator must adjust the written cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instruments used to comply with ~~the requirements of~~ Section 721.243. An owner or operator that uses the financial test or corporate guarantee must update its cost estimate for inflation within 30 days after the close of the firm's fiscal year and before submitting ~~submission of~~ updated information to the Agency and USEPA under ~~pursuant to~~ Section 721.243(e)(3). The adjustment may be made by recalculating the cost estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product (Deflator) published by the U.S. Department of Commerce, as specified in subsections (b)(1) and (b)(2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

1) The first adjustment is made by multiplying the cost estimate by the inflation factor. The result is the adjusted cost estimate.

2) Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.

BOARD NOTE: The table of Deflators is available as Table 1.1.9. in the National Income and Product Account Tables, published by U.S. Department of

Commerce, Bureau of Economic Analysis, National Economic Accounts, available on-line at the following web address: https://apps.bea.gov/itable/?reqid=19&step=2&isuri=1&categories=survey Select: Section 1-Domestic Product and Income ~~www.bea.gov/national/nipaweb/TableView.aspSelectedTable=1&FirstYear=200&LastYear=200&Freq=Qtr.~~

c) During the active life of the facility, the owner or operator must revise the cost estimate ~~no later than~~ within 30 days after a change in a facility's operating plan or design that would increase the costs of conducting the activities described in subsection (a) or ~~no later than~~ within 60 days after an unexpected event that ~~which~~ increases the cost of conducting the activities described in subsection (a). The revised cost estimate must be adjusted for inflation, as specified in subsection (b).

d) The owner or operator must keep the following documents at the facility during the operating life of the facility: The latest cost estimate prepared ~~in accordance with~~under subsections (a) and (c) and, when this estimate has been adjusted ~~in accordance with~~under subsection (b), the latest adjusted cost estimate.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.243 Financial Assurance Condition

As required by Section 721.104(a)(24)(F)(vi), an owner or operator of a reclamation facility or an intermediate facility must have financial assurance as a condition of the exclusion. The owner or operator must choose from ~~among~~ the options specified in subsections (a) through (e).

a) Trust Fund

1) An owner or operator may ~~comply with~~meet ~~satisfy~~ the requirements of this Section by establishing a trust fund that complies with ~~conforms to the requirements of~~ this subsection (a) and submitting an originally signed duplicate of the trust agreement to the Agency. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

2) The wording of the trust agreement must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251, and the trust agreement must be accompanied by a formal certification of acknowledgment, as specified by the Agency under ~~pursuant to~~ Section 721.251. Schedule A of the trust agreement must be updated within 60 days after any change in the amount of the current cost estimate covered by the agreement.

3) The trust fund must be funded for the full amount of the current cost estimate before it may be relied upon to comply with ~~satisfy the requirements of~~ this Section.

4) Whenever the current cost estimate changes, the owner or operator must compare the new cost estimate with the trustee's most recent annual valuation of the trust fund. Within 60 days after the change in the cost estimate, if the value of the fund is less than the amount of the new cost estimate, the owner or operator must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current cost estimate, or the owner or operator must obtain other financial assurance that complies with ~~satisfies the requirements of~~ this Section to cover the difference.

5) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the Agency for release of the amount more than ~~in excess of~~ the current cost estimate.

6) If an owner or operator substitutes other financial assurance that complies with ~~satisfies the requirements of~~ this Section for all or part of the trust fund, it may submit a written request to the Agency for release of the amount in excess of the current cost estimate covered by the trust fund.

7) Within 60 days after receiving a request from the owner or operator for a release of funds, as specified in subsection (a)(5) or (a)(6), the Agency will ~~must~~ instruct the trustee to release to the owner or operator those ~~such~~ funds that ~~as~~ the Agency specifies in writing. If the owner or operator begins final closure under ~~pursuant to~~ Subpart G of 35 Ill. Adm. Code 724 or 725, it may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. ~~No later than~~Within 60 days after receiving bills for partial or final closure activities, if the Agency determines that the partial or final closure expenditures ~~are in accordance~~conforms to ~~with~~ the approved closure plan, or otherwise justified, the Agency will ~~must~~ instruct the trustee to make reimbursements in those amounts as the Agency specifies in writing. If the Agency has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, the Agency may withhold reimbursements of those ~~such~~ amounts that ~~as~~ the Agency deems prudent until the Agency determines, in ~~accordance with~~under 35 Ill. Adm. Code 725.243(i), that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Agency does not instruct the trustee to make

these ~~such~~ reimbursements, the Agency must provide to the owner or operator a detailed written statement of reasons.

8) The Agency must agree to terminating ~~termination of~~ the trust fund when either of the following has occurred:

A) The Agency determines that the owner or operator has substituted alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section; or

B) The Agency releases the owner or operator from obligation under ~~the requirements of~~ this Section in ~~accordance~~ compliance with subsection (i).

b) Surety Bond Guaranteeing Payment into a Trust Fund

1) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining a surety bond that complies with ~~conforms to the requirements of~~ this subsection (b) and submitting the bond to the Agency. The surety company issuing the bond must, at a minimum, be ~~among those~~ listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.
BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", on an annual basis ~~pursuant to~~under 31 CFR 223.16. Circular 570 is available on the Internet from the following website: http://www.fms.treas.gov/c570/.

2) The wording of the surety bond must be identical to the wording specified by the Agency ~~pursuant to~~under Section 721.251.

3) The owner or operator that ~~who~~ uses a surety bond to comply with ~~satisfy the requirements of~~ this Section must also establish a standby trust fund. Under the terms of the bond, all payments made ~~there~~under the bond will be deposited by the surety directly into the standby trust fund ~~in~~ accordinganc~~e~~ ~~with~~to the Agency's instructions ~~from the Agency~~. This standby trust fund must comply with~~meet the requirements specified in~~ subsection (a), except that the following also apply:

A) The owner or operator must submit an originally signed duplicate of the trust agreement to the Agency with the surety bond; and

B) Until the standby trust fund is funded under ~~pursuant to the requirements of~~ this Section, the following are not required:

i) Payments into the trust fund, as specified in subsection (a);

ii) Updating ~~of~~ Schedule A of the trust agreement to show current cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment, as required by the trust agreement.

4) The bond must guarantee that the owner or operator will undertake one of the following actions:

A) That the owner or operator will fund the standby trust fund in an amount equal to the penal sum of the bond before loss of the exclusion under ~~pursuant to~~ Section 721.104(a)(24);

B) That the owner or operator will fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin closure issued by the Agency becomes final, or within 15 days after an order to begin closure is issued by the Board or a court of competent jurisdiction; or

C) Within 90 days after receipt by both the owner or operator and the Agency of a notice cancelling ~~of cancellation of~~ the bond from the surety, that the owner or operator will provide alternate financial assurance that complies with ~~satisfies the requirements of~~ this Section and obtain the Agency's written approval of the assurance provided.

5) Under the terms of the bond, the surety must become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

6) The penal sum of the bond must be in an amount at least equal to the current cost estimate, except as provided in subsection (f).

7) Whenever the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of this ~~such~~ increase to the Agency, or obtain other financial assurance that complies with ~~satisfies the requirements of~~ this Section to cover the increase. Whenever the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the Agency.

8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

9) The owner or operator may cancel the bond if the Agency has given prior written consent based on the Agency's receipt of evidence of alternate financial assurance that complies with ~~satisfies the requirements of~~ this Section.

c) Letter of Credit

1) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining an irrevocable standby letter of credit that complies with ~~conforms to the requirements of~~ this subsection (c) and submitting the letter to the Agency. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.

2) The wording of the letter of credit must be identical to the wording specified by the Agency ~~pursuant to~~under Section 721.251.

3) An owner or operator that ~~who~~ uses a letter of credit to comply with ~~satisfy the requirements of~~ this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid under ~~pursuant to~~ a draft by the Agency will be deposited by the issuing institution directly into the standby trust fund ~~in accordance with~~according to the Agency's instructions ~~from the Agency~~. This standby trust fund must comply with ~~meet the requirements of the trust fund specified in~~ subsection (a), except that the following also apply:

A) The owner or operator must submit an originally signed duplicate of the trust agreement to the Agency with the letter of credit; and

B) Unless the standby trust fund is funded under ~~pursuant to the requirements of~~ this Section, the following are not required:

i) Payments into the trust fund, as specified in subsection (a);

ii) Updating ~~of~~ Schedule A of the trust agreement to show current cost estimates;

iii) Annual valuations, as required by the trust agreement; and

iv) Notices of nonpayment, as required by the trust agreement.

4) The letter of credit must be accompanied by a letter from the owner or operator that refers to the letter of credit by number, issuing institution, and date, and that ~~which~~ provides the following information: The USEPA identification number (if any issued), name, and address of the facility, and the amount of funds assured for the facility by the letter of credit.

5) The letter of credit must be irrevocable, and the letter must be issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

6) The letter of credit must be issued in an amount at least equal to the current cost estimate, except as provided in subsection (f).

7) Whenever the current cost estimate increases to an amount greater than the amount of the credit, within 60 days after the increase, the owner or operator must either cause the amount of the credit to be increased, so that it at least equals the current cost estimate, and submit evidence of this ~~such~~ increase to the Agency, or it must obtain other financial assurance that complies with ~~satisfies the requirements of~~ this Section to cover the increase. Whenever the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current cost estimate following written approval by the Agency.

8) Following a determination by the Agency that the hazardous secondary materials do not meet the conditions of the exclusion set forth in Section 721.104(a)(24), the Agency may draw on the letter of credit.

9) If the owner or operator does not establish alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section and obtain written approval of the ~~such~~ alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency may draw on the letter of credit. The Agency may delay the drawing if the issuing institution extends ~~grants an extension of~~ the term of the credit. During the last 30 days after ~~of~~ any ~~such~~ extension, the Agency may draw on the letter of credit if the owner or operator has failed to provide alternative financial assurance that complies with ~~satisfies the requirements of~~ this

Section and obtain written approval of this ~~such~~ assurance from the Agency.

10) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:

A) The owner or operator substitutes alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section; or

B) The Agency releases the owner or operator from the requirements of this Section ~~in accordance with~~under subsection (i).

d) Insurance

1) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining insurance that complies with ~~conforms to the requirements of~~ this subsection (d) and submitting a certificate of that ~~such~~ insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

2) The wording of the certificate of insurance must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251.

3) The insurance policy must be issued for a face amount at least equal to the current cost estimate, except as provided in subsection (f). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

4) The insurance policy must guarantee that funds will be available whenever needed to pay the cost of removal of all hazardous secondary materials from the unit, to pay the cost of decontaminating ~~decontamination of~~ the unit, and to pay the costs of ~~the~~ performing~~ance of~~ activities required under Subpart G of 35 Ill. Adm. Code 724 or 725, as applicable, for the facilities covered by the policy. The policy must also guarantee that once funds are needed, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency, to the ~~such~~ party or parties as the Agency specifies.

5) After beginning partial or final closure under ~~pursuant to~~ 35 Ill. Adm. Code 724 or 725, as applicable, an owner or operator or any other authorized person may request reimbursements for closure expenditures by submitting itemized bills to the Agency. The owner or operator may request reimbursements only if the remaining value of the policy is

sufficient to cover the maximum costs of closing the facility over its remaining operating life. If the Agency determines that the expenditures are ~~in~~ accordinganc~~e with~~ to the approved plan or are otherwise justified, the Agency must, within 60 days after receiving bills for closure activities, instruct the insurer in writing to make reimbursements in the ~~ose such~~ amounts that ~~as~~ the Agency specifies. If the Agency has reason to believe that the maximum cost over the remaining life of the facility will be significantly greater than the face amount of the policy, the Agency may withhold reimbursement of the ~~ose such~~ amounts that ~~as~~ the Agency deems prudent until the Agency determines, ~~in accordance with~~under subsection (h), that the owner or operator is no longer required to maintain financial assurance for the particular facility. If the Agency does not instruct the insurer to make the~~se such~~ reimbursements under this subsection (d)(5), the Agency must provide to the owner or operator a detailed written statement of reasons.

BOARD NOTE: The owner or operator may appeal any Agency determination made under ~~pursuant to~~ this subsection (d)(5), as provided by Section 40 of the Act.

6) The owner or operator must maintain the policy in full force and effect until the Agency consents to the owner or operator terminating ~~termination of~~ the policy ~~by the owner or operator~~, as specified in subsection (d)(10). Failure to pay the premium, without substituting ~~substitution of~~ alternate financial assurance as specified in this Section, will constitute a significant violation of these regulations warranting the ~~such~~ remedy that ~~as~~ is deemed necessary under ~~pursuant to~~ Sections 31, 39, and 40 of the Act. This ~~Such a~~ violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew the policy due to nonpayment of the premium, rather than upon the date of policy expiration.

7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. The ~~Such~~ assignment may be conditioned on consent of the insurer, so long as the policy provides that the insurer may not unreasonably refuse this ~~such~~ consent.

8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy, except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewing ~~renewal~~ at the face amount of the expiring policy. If the owner or operator fails to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days that begin on the date that both the Agency and the owner or operator have received

the notice, as evidenced by the return receipts. Cancellation, termination, or failure to renew the policy may not occur, and the policy will remain in full force and effect~~,~~ if ~~in the event that~~ on or before the expiration date, one of the following events occurs:

A) The Agency deems the facility abandoned;

B) Conditional exclusion or interim status is lost, terminated, or revoked;

C) Closure is ordered by the Board or a court of competent jurisdiction;

D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 of the U.S. Code (Bankruptcy); or

E) The premium due has been paid.

9) Whenever the owner or operator learns that the current cost estimate has increased to an amount greater than the face amount of the policy, the owner or operator must, within 60 days after learning of the increase, either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of this ~~such~~ increase to the Agency, or the owner or operator must obtain other financial assurance that complies with ~~satisfies the requirements of~~ this Section to cover the increase. Whenever the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate after the owner or operator has obtained the written approval of the Agency.

10) The Agency must give written consent that allows the owner or operator to terminate the insurance policy when either of the following events occurs:

A) The Agency has determined that the owner or operator has substituted alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section; or

B) The Agency has released the owner or operator from obligation under ~~the requirements of~~ this Section under ~~pursuant to~~ subsection (i).

e) Financial Test and Corporate Guarantee

1) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by demonstrating that the owner or operator passes one of the financial tests specified in this subsection (e). To pass a financial test, the

owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B):

A) Test 1. The owner or operator must have each of the following:

i) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;

ii) Net working capital and tangible net worth each at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least $10 million; and

iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

B) Test 2. The owner or operator must have each of the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates;

iii) Tangible net worth of at least $10 million; and

iv) Assets located in the United States amounting to either at least 90 percent of total assets or at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

2) Definitions as used in subsection (e)(1).

"Current cost estimates"~~, as used in subsection (e)(1), refers to~~ means the following four cost estimates required in the standard letter from the owner's or operator's chief financial officer:

The cost estimate for each facility for which the owner or operator has demonstrated financial assurance through the financial test specified in subsections (e)(1) through (e)(9);

The cost estimate for each facility for which the owner or operator has demonstrated financial assurance through the corporate guarantee specified in subsection (e)(10);

For facilities in a state outside of Illinois, the cost estimate for each facility for which the owner or operator has demonstrated financial assurance through the financial test specified in Subpart H of 40 CFR 261 or through a financial test deemed by USEPA as equivalent to that ~~set forth~~ in Subpart H of 40 CFR 261; and

The cost estimate for each facility for which the owner or operator has not demonstrated financial assurance to the Agency, USEPA, or a sister state in which the facility is located by any mechanism that complies with ~~satisfies the requirements of~~ the applicable of this Subpart H, Subpart H of 40 CFR 261, or regulations deemed by USEPA as equivalent to Subpart H of 40 CFR 261.

"Current plugging and abandonment cost estimates"~~, as used in subsection (e)(1), refers to~~ means the following four cost estimates required in the standard form of a letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240):

The cost estimate for each facility for which the owner or operator has demonstrated financial assurance through the financial test specified in 35 Ill. Adm. Code 704.219(a) through (i);

The cost estimate for each facility for which the owner or operator has demonstrated financial assurance through the financial test specified in 35 Ill. Adm. Code 704.219(j); For facilities in a state outside of Illinois, the cost estimate for each facility for which the owner or operator has demonstrated financial assurance through the financial test specified in Subpart F of 40 CFR 144 or through a financial test deemed by USEPA as equivalent to that ~~set forth~~ in Subpart F of 40 CFR 144; and

The cost estimate for each facility for which the owner or operator has not demonstrated financial assurance to the Agency, USEPA, or a sister state in which the facility is

located by any mechanism that complies with ~~satisfies the requirements of~~ the applicable requirements of Subpart G of 35 Ill. Adm. Code 704, Subpart F of 40 CFR 144, or regulations deemed by USEPA as equivalent to Subpart F of 40 CFR 144.

BOARD NOTE: Corresponding 40 CFR 261.143(e)(2) defines "current cost estimate" as "the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (Section 261.151(e))" and "current plugging and abandonment cost estimates" as "the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (Section 144.70(f) of this chapter)". The Board has substituted the descriptions of these estimates, using those ~~set forth~~specified by USEPA in 40 CFR 261.151(e) and 144.70(f), as appropriate. Since the letter of the chief financial officer must include the cost estimates for any facilities that the owner or operator manages outside of Illinois, the Board has referred to the corresponding regulations of those sister states as "regulations deemed by USEPA as equivalent to Subpart F of 40 CFR 144 and Subpart H of 40 CFR 261".

3) To demonstrate that it meets the financial test ~~set forth~~ in subsection (e)(1), the owner or operator must submit the following items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified by the Agency under ~~pursuant to~~ Section 721.251 that is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts of the pertinent environmental liabilities included in these ~~such~~ financial statements;

B) A copy of an independent certified public accountant's report on examining ~~examination of~~ the owner's or operator's financial statements for the latest completed fiscal year; and

C) If the chief financial officer's letter prepared under ~~pursuant to~~ subsection (e)(3)(A) includes financial data that ~~which~~ shows that the owner or operator ~~satisfies~~ meets the test ~~set forth~~ in subsection (e)(1)(A) (Test 1), and either the data in the chief financial officer's letter are different from the data in the audited financial statements required by subsection (e)(3)(B)of this Section, or the data are different from any other audited financial statement or data filed with the federal Securities and Exchange Commission, then the owner or operator must submit a special report from its independent certified public accountant. The special report must

be based on an agreed-upon procedures engagement, in ~~accordance~~ compliance with professional auditing standards. The report must describe the procedures used to compare the data in the chief financial officer's letter (prepared under ~~pursuant to~~ subsection (e)(3)(A)), the findings of the comparison, and the reasons for any differences.

4) This subsection (e)(3)(4) corresponds with 40 CFR 261.143(e)(3)(iv), a provision relating to extending ~~extension of~~ the deadline for filing the financial documents required by 40 CFR 261.143(e)(3) until ~~as late as~~ 90 days after the effective date of the federal rule. Thus, the latest date for filing the documents was March 29, 2009, which is now past. See 40 CFR 261.143(e)(3) and 73 Fed. Reg. 64668 (Oct. 30, 2008). This statement maintains structural consistency with the corresponding federal provision.

5) After initially submitting ~~the initial submission of~~ items specified in subsection (e)(3), the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must comprise ~~consist of~~ all three items specified in subsection (e)(3).

6) If the owner or operator no longer complies with ~~fulfills the requirements of~~ subsection (e)(1), it must send notice to the Agency of intent to establish alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section. The owner or operator must send the notice by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternative financial assurance within 120 days after the end of the ~~such~~ fiscal year.

7) The Agency may, based on a reasonable belief that the owner or operator may no longer be complying with ~~meet the requirements of~~ subsection (e)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e)(3). If the Agency finds, on the basis of these ~~such~~ reports or other information, that the owner or operator no longer complies with ~~meets the requirements of~~ subsection (e)(1), the owner or operator must provide alternative financial assurance that meets ~~satisfies~~ the requirements of this Section within 30 days after receiving notice of the ~~notification of such a~~ finding.

8) The Agency must disallow use of the financial tests ~~set forth~~ in this subsection (e) on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examining ~~examination of~~ the owner's or operator's financial statements (see subsection (e)(3)(B)) if ~~where~~ the Agency determines that those

qualifications significantly, adversely affect the owner's or operator's ability to provide its own financial assurance by this mechanism. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate all other kinds of qualifications on an individual basis. The owner or operator must provide alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section within 30 days after receiving notice ~~a notification~~ of Agency disallowance under ~~pursuant to~~ this subsection (e)(8).

9) The owner or operator is no longer required to submit the items specified in subsection (e)(3) when either of the following events occur:

A) An owner or operator has substituted alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section; or

B) The Agency releases the owner or operator from obligation under ~~the requirements of~~ this Section under ~~pursuant to~~ subsection (i).

10) Corporate guarantee for financial responsibility. An owner or operator may comply with ~~the requirements of~~ this Section by obtaining a written corporate guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a sister firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements applicable to an owner or operator ~~as provided set forth~~ in subsections (e)(1) through (e)(8), and it must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251. A certified copy of the guarantee must accompany the items sent to the Agency that are required by subsection (e)(3). One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide as follows:

A) Following a determination by the Agency that the hazardous secondary materials at the owner or operator's facility covered by this guarantee do not meet the conditions of the exclusion under Section 721.104(a)(24), the guarantor must dispose of any hazardous secondary material as hazardous waste and close the facility in ~~accordance~~ compliance with the applicable closure

requirements ~~set forth~~ in 35 Ill. Adm. Code 724 or 725, or the guarantor must establish a trust fund in the name of the owner or operator and in the amount of the current cost estimate that complies with ~~satisfies the requirements of~~ subsection (a).

B) The corporate guarantee must remain in force unless the guarantor has sent notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date on which both the owner or operator and the Agency have received the notice of cancellation, as evidenced by the return receipts.

C) If the owner or operator fails to provide alternative financial assurance that complies with ~~satisfies the requirements of~~ this Section and obtain the written approval of the ~~such~~ alternate assurance from the Agency within 90 days after the date on which both the owner or operator and the Agency have received the notice of cancellation of the corporate guarantee from the guarantor, the guarantor must provide the ~~such~~ alternative financial assurance in the name of the owner or operator.

f) Use of Multiple Financial Mechanisms. An owner or operator may comply with ~~satisfy the requirements of~~ this Section by establishing more than one financial mechanism per facility. The mechanisms that an owner or operator may use for this purpose are limited to a trust fund that complies with ~~satisfies the requirements of~~ subsection (a), a surety bond that complies with ~~satisfies the requirements of~~ subsection (b), a letter of credit that complies with ~~satisfies the requirements of~~ subsection (c), and insurance that complies with ~~satisfies the requirements of~~ subsection (d). The mechanisms must individually satisfy the indicated requirements of this Section, except that it is the combination of all mechanisms used by the owner or operator, rather than any individual mechanism, that must provide financial assurance for an aggregated amount at least equal to the current cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. The owner or operator may establish a single standby trust fund for two or more mechanisms. The Agency may use any ~~or all~~ of the mechanisms to provide care for the facility.

g) Use of a Single Financial Mechanism for Multiple Facilities. An owner or operator may use a single financial assurance mechanism that complies with ~~satisfies the requirements of~~ this Section to comply with ~~fulfill the requirements of~~ this Section for more than one facility. Evidence of financial assurance submitted to the Agency must include a list showing, for each facility, the USEPA identification number (if any), name, address, and the amount of funds assured by the mechanism. If the facilities covered by the mechanism are in more than one Region, USEPA requires the owner of operator to submit and maintain identical

evidence of financial assurance with each USEPA Region in which a covered facility is located. The amount of funds available through the mechanism must not be ~~be no~~ less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through a mechanism for any of the facilities covered by that mechanism, the Agency may direct only that amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

h) Removal and Decontamination Plan for Release from Financial Assurance Obligations

1) An owner or operator of a reclamation facility or an intermediate facility that wishes to be released from its financial assurance obligations under Section 721.104(a)(24)(F)(vi) must submit a plan for removing all hazardous secondary material residues from the facility. The owner or operator must submit the plan to the Agency at least 180 days prior to the date on which the owner or operator expects to cease to operate under the exclusion.

2) The plan must, at a minimum, include the following information:

A) For each hazardous secondary materials storage unit subject to financial assurance requirements under ~~pursuant to~~ Section 721.104(a)(24)(F)(vi), the plan must describe ~~include a description of~~ how all excluded hazardous secondary materials will be recycled or sent for recycling, and how all residues, contaminated containment systems (liners, etc.), contaminated soils, subsoils, structures, and equipment will be removed or decontaminated as necessary to protect human health and the environment;

B) The plan must describe ~~include a description of~~ the steps necessary to remove or decontaminate all hazardous secondary material residues and contaminated containment system components, equipment, structures, and soils, including~~, but not limited to,~~ procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to protect human health and the environment;

C) The plan must describe ~~include a description of~~ any other activities necessary to protect human health and the environment during this timeframe, including~~, but not limited to,~~ leachate collection, run-on and run-off control, etc.; and

D) The plan must include a schedule for conducting the activities described that, at a minimum, includes the total time required to remove all excluded hazardous secondary materials for recycling and decontaminate all units subject to financial assurance under ~~pursuant to~~ Section 721.104(a)(24)(F)(vi) and the time required for intervening activities that will allow tracking of the progress of decontamination.

3) The Agency must provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on and request modifications to the plan. The Agency must accept any comments or requests to modify the plan that it receives ~~no later than~~within 30 days after the date when ~~of publication of~~ the notice is published. The Agency must also, in response to a request or in its discretion, hold a public hearing whenever it determines that ~~such~~ a hearing might clarify one or more issues concerning the plan. The Agency must give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the Agency may combine the two notices.) The Agency must approve, modify, or disapprove the plan within 90 days after its receipt. If the Agency does not approve the plan, the Agency must provide the owner or operator with a detailed written statement of reasons for its refusal, and the owner or operator must modify the plan or submit a new plan for approval within 30 days after the owner or operator receives ~~such~~ a written statement from the Agency. The Agency must approve or modify this owner- or operator-modified plan in writing within 60 days. If the Agency modifies the owner- or operator-modified plan, this modified plan becomes the approved plan. The Agency must assure that the approved plan is consistent with this subsection (h). A copy of the modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

4) Within 60 days after completing ~~completion of~~ the activities described for each hazardous secondary materials management unit, the owner or operator must submit to the Agency, by registered mail, a certification that all hazardous secondary materials have been removed from the unit and that the unit has been decontaminated in ~~accordance~~ compliance with the specifications in the approved plan. The certification must be signed by the owner or operator and by a qualified Professional Engineer. Upon request, the owner or operator must furnish the Agency with documentation that supports the Professional Engineer's certification, until the Agency releases the owner or operator from the financial assurance requirements of Section 721.104(a)(24)(F)(vi).

i) Releasing ~~Release of~~ the Owner or Operator from Obligation Under ~~the Requirements of~~ This Section. Within 60 days after receiving certifications from

the owner or operator and a qualified Professional Engineer that all hazardous secondary materials have been removed from the facility or from a unit at the facility and the facility or unit has been decontaminated in ~~accordance~~ according to ~~with~~ the approved plan in compliance with ~~the requirements of~~ subsection (h), the Agency must determine whether or not the owner or operator has accomplished the objectives of removing all hazardous secondary materials from the facility or from a unit at the facility and decontaminating the facility in ~~accordance~~ compliance with the approved plan. If the Agency determines that the owner or operator has accomplished both objectives, the Agency must notify the owner or operator in writing, within the 60 days, that the owner and operator are no longer required under ~~pursuant to~~ Section 721.104(a)(24)(F)(vi) to maintain financial assurance for that facility or unit at the facility. If the Agency determines that the owner or operator has not accomplished both objectives, it must provide the owner or operator with a detailed written statement of the basis for its determination.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.247 Liability Requirements

a) Coverage for Sudden Accidental Occurrences. The owner or operator of one or more hazardous secondary material reclamation facilities or intermediate facilities that are subject to financial assurance requirements under ~~pursuant to~~ Section 721.104(a)(24)(F)(vi) must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of its facilities. The owner or operator must maintain liability coverage in force for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in any of subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6).

1) An owner or operator may demonstrate the required liability coverage by having liability insurance that complies with ~~satisfies the requirements of~~ this subsection (a)(1).

A) Each insurance policy must be amended by attachment of the Hazardous Secondary Material Facility Liability Endorsement~~,~~ or evidenced by a Certificate of Liability Insurance. The wording of the Hazardous Secondary Material Facility Liability Endorsement must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251. The wording of the Certificate of Liability Insurance must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251. The owner or operator must submit a signed duplicate original of the Hazardous Secondary Material Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency. If requested by

the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

B) At a minimum, each insurance policy must be issued by an insurer that is licensed to transact the business of insurance, or that ~~which~~ is eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

2) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by passing a financial test or using the guarantee for liability coverage that complies with ~~satisfies the requirements of~~ subsections (f) and (g).

3) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining a letter of credit for liability coverage that complies with ~~satisfies the requirements of~~ subsection (h).

4) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining a surety bond for liability coverage that complies with ~~satisfies the requirements of~~ subsection (i).

5) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining a trust fund for liability coverage that complies with ~~satisfies the requirements of~~ subsection (j).

6) An owner or operator may demonstrate the required liability coverage by using ~~combined through the use of~~ a combination of insurance under ~~(~~subsections (a)(~~2~~1) through (a)(5), ~~financial test (subsection (f)), guarantee (subsection (g)), letter of credit (subsection (h)), surety bond (subsection (i)), or and trust fund (subsection (j))~~, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee if ~~where~~ the financial statement of the owner or operator is consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated by the combination must total at least the minimum amounts required for the facility by this Section. If the owner or operator demonstrates the required coverage using ~~combined through the use of~~ a combination of financial assurances under ~~pursuant to~~ this subsection (a)(6), the owner or operator must specify at least one ~~such~~ assurance as "primary" coverage and all other assurance as "excess" coverage.

7) An owner or operator must notify the Agency in writing within 30 days whenever any of the following events has occurred:

A) A claim has resulted in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized by any of subsections (a)(1) through (a)(6);

B) A Certification of Valid Claim for bodily injury or property damages caused by a sudden or non-sudden accidental occurrence arising from operating ~~the operation of~~ a hazardous secondary material reclamation facility or intermediate facility is entered between the owner or operator and a third-party claimant for liability coverage established under ~~pursuant to~~ any of subsections (a)(1) through (a)(6); or

C) A final court order that establishes a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence that ~~which~~ arose from operating ~~the operation of~~ a hazardous secondary material reclamation facility or intermediate facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under ~~pursuant to~~ any of subsections (a)(1) through (a)(6).

BOARD NOTE: Corresponding 40 CFR 261.147(a) recites that it applies to "a hazardous secondary material reclamation facility or intermediate facility with land-based units…or a group of such facilities". The Board has rendered this provision in the singular, intending that it include several facilities as a group if ~~where~~ necessary. The Board does not intend to limit the applicability of this provision to multiple facilities. Note that the Agency can require complying ~~compliance~~ with this provision by a facility to which it would not otherwise apply under ~~pursuant to~~ subsection (d)(2), subject to the owner's or operator's right to appeal an Agency determination to the Board.

b) Coverage for Non-sudden Accidental Occurrences. An owner or operator of a hazardous secondary material reclamation facility or intermediate facility with land-based units, as defined in Section 720.110, that is used to manage hazardous secondary materials excluded under ~~pursuant to~~ Section 721.104(a)(24) must demonstrate financial responsibility for bodily injury and property damage to third parties caused by non-sudden accidental occurrences that arise from operations of the facility or group of facilities. The owner or operator must maintain liability coverage for non-sudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. An owner or operator that must comply with ~~satisfy the requirements of~~ this Section may combine the required per occurrence coverage levels for sudden and non-sudden accidental occurrences into a single per-occurrence level, and the owner or operator may combine the required annual aggregate coverage levels for sudden and non-sudden accidental occurrences into a single annual aggregate level. An owner or operator that combines coverage levels for sudden and non-sudden accidental occurrences must

maintain liability coverage in the amount of at least $4 million per occurrence and $8 million annual aggregate. The owner or operator may demonstrate this liability coverage by any of the means ~~set forth~~ in subsections (b)(1) through (b)(6):

1) An owner or operator may demonstrate the required liability coverage by having liability insurance that complies with ~~satisfies the requirements of~~ this subsection (b)(1).

   A) Each insurance policy must be amended by attachment of the Hazardous Secondary Material Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the Hazardous Secondary Material Facility Liability Endorsement must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251. The wording of the Certificate of Liability Insurance must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251. The owner or operator must submit a signed duplicate original of the Hazardous Secondary Material Facility Liability Endorsement or the Certificate of Liability Insurance to the Agency. If requested by the Agency, the owner or operator must provide a signed duplicate original of the insurance policy.

   B) At a minimum, each insurance policy must be issued by an insurer that is licensed to transact the business of insurance, or that ~~which~~ is eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

2) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by passing a financial test or by using the guarantee for liability coverage that complies with ~~satisfies the requirements of~~ subsections (f) and (g).

3) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining a letter of credit for liability coverage that complies with ~~satisfies the requirements of~~ subsection (h).

4) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining a surety bond for liability coverage that complies with ~~satisfies the requirements of~~ subsection (i).

5) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by obtaining a trust fund for liability coverage that complies with ~~satisfies the requirements of~~ subsection (j).

6) An owner or operator may demonstrate the required liability coverage ~~through~~ by using ~~combined the use of~~ a combination of insurance under ~~(~~subsections (b)(1) through (b)(5), ~~financial test (subsection (f)), guarantee (subsection (g)), letter of credit (subsection (h)), surety bond (subsection (i)), or trust fund (subsection (j)),~~ except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee if ~~where~~ the financial statement of the owner or operator is consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated by the combination must total to at least the minimum amounts required for the facility by this Section. If the owner or operator demonstrates the required coverage by using ~~combined through the use of~~ a combination of financial assurances under ~~pursuant to~~ this subsection (b)(6), the owner or operator must specify at least one ~~such~~ assurance as "primary" coverage and all other assurance as "excess" coverage.

7) An owner or operator must notify the Agency in writing within 30 days whenever any of the following events has occurred:

A) A claim has resulted in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized by any of subsections (b)(1) through (b)(6);

B) A Certification of Valid Claim for bodily injury or property damages caused by a sudden or non-sudden accidental occurrence arising from operating ~~the operation of~~ a hazardous secondary material treatment or storage facility is entered between the owner or operator and a third-party claimant for liability coverage established under ~~pursuant to~~ any of subsections (b)(1) through (b)(6); or

C) A final court order that establishes a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence that ~~which~~ arose from operating ~~the operation of~~ a hazardous secondary material treatment and/or storage facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under ~~pursuant to~~ any of subsections (b)(1) through (b)(6).

BOARD NOTE: Corresponding 40 CFR 261.147(b) recites that it applies to "a hazardous secondary material reclamation facility or intermediate facility with land-based units ... or a group of such facilities". The Board has rendered this provision in the singular, intending that it include several facilities as a group if ~~where~~ necessary. The Board does not intend to limit the applicability of this provision to multiple facilities. Note that the Agency can require complying ~~compliance~~ with this provision by a facility to which it would not otherwise apply

under ~~pursuant to~~ subsection (d)(2), subject to the owner's or operator's right to appeal an Agency determination to the Board.

c) Petition for Adjusted Standard. If an owner or operator can demonstrate that the level of financial responsibility required by subsection (a) or (b) is not consistent with the degree and duration of risk associated with treatment or storage at a facility, the owner or operator may petition the Board for an adjusted standard under ~~pursuant to~~ Section 28.1 of the Act. The petition for an adjusted standard must be filed with the Board and submitted in writing to the Agency, as required by 35 Ill. Adm. Code 101 and Subpart D of 35 Ill. Adm. Code 104. If granted, the adjusted standard will take the form of an adjusted level of required liability coverage, this ~~such~~ level to be based on the Board's assessment of the degree and duration of risk associated with owning ~~the ownership~~ or operating ~~operation of~~ the facility or group of facilities. The owner or operator that requests an adjusted standard must provide the ~~such~~ technical and engineering information that ~~as~~ is necessary for the Board to determine that an alternative level of financial responsibility to that required by subsection (a) or (b) should apply.

BOARD NOTE: Corresponding 40 CFR 261.147(c) allows application for a "variance" for "the levels of financial responsibility" required for "the facility or group of facilities". The Board has rendered this provision in the singular, intending that it include a single petition pertaining to several facilities as a group. The Board does not intend to limit the applicability of this provision to multiple facilities in a single petition. The Board has chosen the adjusted standard procedure for variance from the level of financial responsibility required by subsection (a) or (b).

d) Adjustments by the Agency

1) If the Agency determines that the level of financial responsibility required by subsection (a) or (b) is not consistent with the degree and duration of risk associated with treatment or storage of hazardous secondary material at a facility, the Agency may adjust the level of financial responsibility required to comply with ~~satisfy the requirements of~~ subsection (a) or (b) to the level that the Agency ~~deems~~ considers necessary to protect human health and the environment. The Agency must base this adjusted level on an assessment of the degree and duration of risk associated with owning ~~the ownership~~ or operating ~~operation of~~ the facility.

2) In addition, if the Agency determines that there is a significant risk to human health and the environment from non-sudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, pile, or land treatment facility, the Agency may require the owner or operator of the facility to comply with subsection (b).

3) An owner or operator must furnish to the Agency, within a reasonable time, any information that the Agency requests to aid its determination whether cause exists for these ~~such~~ adjustments of level or type of coverage.

BOARD NOTE: The owner or operator may appeal any Agency determination made under ~~pursuant to~~ this subsection (d) under ~~pursuant to~~ Section 40 of the Act.

e) Release from the Financial Assurance Obligation for a Facility or a Unit at a Facility

1) After an owner or operator has removed all hazardous secondary material from a facility or a unit at a facility and decontaminated the facility or unit at the facility, the owner or operator may submit a written request that the Agency release it from the obligation of subsections (a) and (b) as they apply to the facility or to the unit. The owner or operator and a qualified Professional Engineer must submit with the request certifications stating that all hazardous secondary materials have been removed from the facility or from a unit at the facility, and that the facility or a unit has been decontaminated in ~~accordance~~ compliance with the owner's or operator's Agency-approved Section 721.243(h) plan.

2) Within 60 days after receiving the complete request and certifications described in subsection (e)(1), the Agency must notify the owner or operator in writing of its determination on the request. The Agency must grant the request only if it determines that the owner or operator has removed all hazardous secondary materials from the facility or from the unit at the facility and that the owner or operator has decontaminated the facility or unit in ~~accordance~~ compliance with its Agency-approved Section 721.243(h) plan.

3) After an affirmative finding by the Agency under ~~pursuant to~~ subsection (e)(2), the owner or operator is no longer required to maintain liability coverage under ~~pursuant to~~ Section 721.104(a)(24)(F)(vi) for that facility or unit at the facility that is indicated in the written notice issued by the Agency.

BOARD NOTE: The Board has broken the single sentence of corresponding 40 CFR 261.147(e) into five sentences in three subsections in this subsection (e) for enhanced clarity. The owner or operator may appeal any Agency determination made under ~~pursuant to~~ this subsection (e) under ~~pursuant to~~ Section 40 of the Act.

f) Financial Test for Liability Coverage

1) An owner or operator may comply with ~~satisfy the requirements of~~ this Section by demonstrating that it passes one of the financial tests specified in this subsection (f)(1). To pass a financial test, the owner or operator must meet the criteria of either subsection (f)(1)(A) or (f)(1)(B):

A) Test 1. The owner or operator must have each of the following:

i) Net working capital and tangible net worth each at least six times the amount of liability coverage that the owner or operator needs to demonstrate by this test;

ii) Tangible net worth of at least $10 million; and

iii) Assets in the United States that amount to either at least 90 percent of the owner's or operator's total assets or at least six times the amount of liability coverage that it needs to demonstrate by this test.

B) Test 2. The owner or operator must have each of the following:

i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;

ii) Tangible net worth of at least $10 million;

iii) Tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

iv) Assets in the United States amounting to either at least 90 percent of the owner's or operator's total assets or at least six times the amount of liability coverage that it needs to demonstrate by this test.

2) Definition

"Amount of liability coverage", as used in subsection (f)(1), refers to the annual aggregate amounts for which coverage is required under ~~pursuant to~~ subsections (a) and (b) and the annual aggregate amounts for which coverage is required under ~~pursuant to~~ 35 Ill. Adm. Code 724.247(a) and (b) or 725.247(a) and (b).

3) To demonstrate that it meets the financial test ~~set forth~~ in subsection (f)(1), the owner or operator must submit the following three items to the Agency:

A) A letter signed by the owner's or operator's chief financial officer and worded as specified by the Agency under ~~pursuant to~~ Section 721.251. If an owner or operator is using the financial test to demonstrate both financial assurance, as specified by Section 721.243(e), and liability coverage, as specified by this Section, the owner or operator must submit the letter specified by the Agency under ~~pursuant to~~ Section 721.251 for financial assurance to cover both forms of financial responsibility; no separate letter is required for liability coverage;

B) A copy of an independent certified public accountant's report on examining ~~examination of~~ the owner's or operator's financial statements for the latest completed fiscal year; and

C) If the chief financial officer's letter prepared under ~~pursuant to~~ subsection (f)(3)(A) includes financial data that ~~which~~ shows that the owner or operator satisfies the test ~~set forth~~ in subsection (f)(1)(A) (Test 1), and either the data in the chief financial officer's letter are different from the data in the audited financial statements required by subsection (f)(3)(B), or the data are different from any other audited financial statement or data filed with the federal Securities and Exchange Commission, then the owner or operator must submit a special report from its independent certified public accountant. The special report must be based on an agreed-upon procedures engagement, in ~~accordance~~ compliance with professional auditing standards. The report must describe the procedures used to compare the data in the chief financial officer's letter (prepared under ~~pursuant to~~ subsection (f)(3)(A)), the findings of the comparison, and the reasons for any difference.

4) This subsection (f)(4) corresponds with 40 CFR 261.147(f)(3)(iv), a provision relating to extending ~~extension of~~ the deadline for filing the financial documents required by 40 CFR 261.147(f)(3) until as late as 90 days after the effective date of the federal rule. Thus, the latest date for filing the documents was March 29, 2009, which is now past. See 40 CFR 261.147(f)(3) and 73 Fed. Reg. 64668 (Oct. 30, 2008). This statement maintains structural consistency with the corresponding federal provision.

5) After initially submitting ~~the initial submission of~~ items specified in subsection (f)(3), the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must comprise ~~consist of~~ all three items specified in subsection (f)(3).

6) If the owner or operator no longer complies with ~~fulfills the requirements~~ of subsection (f)(1), it must obtain insurance (subsection (a)(1)~~)~~, a letter of

credit (subsection (h)~~)~~, a surety bond (subsection (i)~~)~~, a trust fund (subsection (j)~~)~~, or a guarantee (subsection (g)~~)~~ for the entire amount of required liability coverage required by this Section. Evidence of liability coverage must be submitted to the Agency within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

7) The Agency must disallow use of the financial tests ~~set forth~~ in this subsection (f) on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examining ~~examination of~~ the owner's or operator's financial statements (see subsection (f)(3)(B)) if ~~where~~ the Agency determines that those qualifications significantly, adversely affect the owner's or operator's ability to provide its own financial assurance by this mechanism. An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate all other kinds of qualifications on an individual basis. The owner or operator must provide evidence of insurance for the entire amount of required liability coverage that complies with ~~satisfies the requirements of~~ this Section within 30 days after receiving notice ~~a notification of~~ Agency disallowance under ~~pursuant to~~ this subsection (f)(7).

g) Corporate Guarantee for Liability Coverage

1) Subject to the limitations of subsection (g)(2), an owner or operator may comply with ~~meet the requirements of~~ this Section by obtaining a written guarantee ("guarantee"). The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a sister firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements applicable to an owner or operator ~~as provided set forth~~ in subsections (f)(1) through (f)(6). The wording of the guarantee must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251. A certified copy of the guarantee must accompany the items sent to the Agency that are required by subsection (f)(3). One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

A) The guarantor must pay full satisfaction, up to the limits of coverage, whenever either of the following events has occurred with regard to liability for bodily injury or property damage to

third parties caused by sudden or non-sudden accidental occurrences (or both) that arose from operating ~~the operation of~~ facilities covered by the corporate guarantee:

i) The owner or operator has failed to ~~satisfy~~meet a judgment based on a determination of liability; or

ii) The owner or operator has failed to pay an amount agreed to in settlement of claims arising from or alleged to arise from the ~~such~~ injury or damage.

B) This subsection (g)(1)(B) is derived from 40 CFR 261.147(g)(1)(ii), which USEPA has marked as "reserved". This statement maintains structural consistency with the corresponding federal regulations.

BOARD NOTE: Any determination by the Agency under ~~pursuant to~~ this subsection (g)(1)(B) is subject to Section 40 of the Act. This subsection (g)(1)(B) is derived from 40 CFR 264.141(h) and 265.141(h) (2017).

2) Limitations on Guarantee and Documentation Required

A) If ~~Where~~ both the guarantor and the owner or operator are incorporated in the United States, a guarantee may be used to comply with ~~satisfy the requirements of~~ this Section only if the Attorneys General or Insurance Commissioners of each of the following states have submitted a written statement to the Agency that a guarantee executed as described in this Section is a legally valid and enforceable obligation in that state:

i) The state in which the guarantor is incorporated (if other than the State of Illinois); and

ii) The State of Illinois (as the state in which the facility covered by the guarantee is located).

B) If ~~Where~~ either the guarantor or the owner or operator is incorporated outside the United States, a guarantee may be used to comply with ~~satisfy the requirements of~~ this Section only if both of the following has occurred:

i) The non-U.S. corporation has identified a registered agent for service of process in the State of Illinois (as the state in which the facility covered by the guarantee is located) and

in the state in which it has its principal place of business (if other than the State of Illinois); and

ii) The Attorney General or Insurance Commissioner of the State of Illinois (as the state in which a facility covered by the guarantee is located) and the state in which the guarantor corporation has its principal place of business (if other than the State of Illinois) has submitted a written statement to the Agency that a guarantee executed as described in this Section is a legally valid and enforceable obligation in that state.

C) The facility owner or operator and the guarantor must provide the Agency with all documents that are necessary and adequate to support an Agency determination that the required substantial business relationship exists adequate to support the guarantee.

BOARD NOTE: The Board added documentation to this subsection (g)(2)(C) to ensure that the owner and operator ensures all information necessary for an Agency determination is submitted to the Agency. The information required would include copies of any contracts and other documents that establish the nature, extent, and duration of the business relationship; any statements of competent legal opinion, signed by an attorney duly licensed to practice law in each of the jurisdictions referred to in the applicable of subsection (g)(2)(A) or (g)(2)(B), that would support a conclusion that the business relationship is adequate consideration to support the guarantee in the pertinent jurisdiction; a copy of the documents required by subsection (g)(2)(A)(ii) or (g)(2)(B)(ii); documents that identify the registered agent, as required by subsection (g)(2)(B)(i); and any other documents requested by the Agency that are reasonably necessary to make a determination that a substantial business relationship exists, as ~~such is~~ defined in subsection (g)(1)(A).

h) Letter of Credit for Liability Coverage

1) An owner or operator may comply with ~~fulfill the requirements of~~ this Section by obtaining an irrevocable standby letter of credit that complies with ~~conforms to the requirements of~~ this subsection (h) and submitting a copy of the letter of credit to the Agency.

2) The financial institution issuing the letter of credit must be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

3) The wording of the letter of credit must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251.

4) An owner or operator that uses a letter of credit to comply with ~~fulfill the requirements of~~ Section may also establish a standby trust fund. Under the terms of this ~~such a~~ letter of credit, all amounts paid under ~~pursuant to~~ a draft by the trustee of the standby trust fund must be deposited by the issuing institution into the standby trust fund ~~in accordance~~complying with instructions from the trustee. The trustee of the standby trust fund must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

5) The wording of the standby trust fund must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251.

i) Surety Bond for Liability Coverage

1) An owner or operator may comply with ~~fulfill the requirements of~~ this Section by obtaining a surety bond that complies with ~~conforms to the requirements of~~ this subsection (i) and submitting a copy of the bond to the Agency.

2) The surety company issuing the bond must be among those listed as acceptable sureties on federal bonds in the most recent Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", on an annual basis under ~~pursuant to~~ 31 CFR 223.16. Circular 570 is available on the Internet at the following website: ~~http://www.fms.treas.gov/c570/~~http://www.fiscal.treasury.gov/surety-bonds/circular-570.html.

3) The wording of the surety bond must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251.

4) A surety bond may be used to comply with ~~fulfill the requirements of~~ this Section only if the Attorneys General or Insurance Commissioners of the following states have submitted a written statement to the Agency that a surety bond executed as described in this Section is a legally valid and enforceable obligation in that state:

A) The state in which the surety is incorporated; and

B) The State of Illinois (as the state in which the facility covered by the surety bond is located).

j) Trust Fund for Liability Coverage

1) An owner or operator may comply with ~~fulfill the requirements of~~ this Section by establishing a trust fund that complies with ~~conforms to the requirements of~~ this subsection (j) and submitting an originally signed duplicate of the trust agreement to the Agency.

2) The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

3) The trust fund for liability coverage must be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to comply with ~~fulfill the requirements of~~ this Section. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of the liability coverage that the owner or operator must provide, the owner or operator must either add sufficient funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or the owner or operator must obtain other financial assurance that complies with ~~satisfies the requirements of~~ this Section to cover the difference. If ~~Where~~ the owner or operator must either add sufficient funds or obtain other financial assurance, it must do so before the anniversary date of the establishment of the trust fund. For ~~purposes of~~ this subsection, "the full amount of the liability coverage to be provided" means the amount of coverage for sudden or non-sudden occurrences that the owner or operator must ~~is required to~~ provide under ~~pursuant to~~ this Section, less the amount of financial assurance for liability coverage that the owner or operator has provided by other financial assurance mechanisms to demonstrate financial assurance.

4) The wording of the trust fund must be identical to the wording specified by the Agency under ~~pursuant to~~ Section 721.251.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART M: EMERGENCY PREPAREDNESS AND RESPONSE FOR MANAGEMENT OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

Section 721.500 Applicability

The requirements of ~~this~~ Subpart M apply to those areas of an entity managing hazardous secondary materials excluded under Section 721.104(a)(23) or (a)(24) where hazardous secondary materials are generated or accumulated on site.

a) A generator of hazardous secondary material, or an intermediate or reclamation facility operating ~~under a verified facility determination under Section 720.131(d)~~, that accumulates 6,000 kg or less of hazardous secondary material at any time must comply with Sections 721.510 and ~~261~~721.511.

b) A generator of hazardous secondary material, or an intermediate or reclamation facility ~~operating under a verified facility determination under Section 720.131(d)~~ that accumulates more than 6,000 kg of hazardous secondary material at any time must comply with Sections 721.510 and 721.520~~261.520~~.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.510 Preparedness and Prevention

a) Maintaining ~~Maintenance~~ and Operating the Facility ~~operation of facility~~. Facilities generating or accumulating hazardous secondary material must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous secondary materials or hazardous secondary material constituents to air, soil, or surface water that could threaten human health or the environment.

b) Required Equipment ~~equipment~~. All facilities generating or accumulating hazardous secondary material must be equipped with the following, unless none of the hazards posed by hazardous secondary material handled at the facility could require a particular kind of equipment specified below:

1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

2) A device, like ~~such as~~ a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, like those ~~such as that~~ using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

c) Testing and Maintenance ~~maintenance~~ of Equipment ~~equipment~~. The owner or operator must test and maintain all required ~~All~~ facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment~~, where required, must be tested and maintained~~ as necessary to assure its proper operation in time of emergency.

d) Access to Communications ~~communications~~ or Alarm System ~~alarm system.~~

1) Whenever hazardous secondary material is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the ~~such a~~ device is not required under subsection (b).

2) If there is ever just one employee on the premises while the facility is operating, ~~he or she~~the employee must have immediate access to a device, like ~~such as~~ a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless the ~~such a~~ device is not required under subsection (b).

e) Required Aisle Space ~~aisle space~~. The hazardous secondary material generator or intermediate or reclamation facility ~~operating under a verified facility determination under 35 Ill. Adm. Code 720.131(d)~~ must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

f) Arrangements with Local Authorities ~~local authorities.~~

1) The hazardous secondary material generator or an intermediate or reclamation facility ~~operating under a verified facility determination under 35 Ill. Adm. Code 720.131(d)~~ must attempt to make the following arrangements, as appropriate for the type of waste handled at its facility and the potential need for the services of these organizations:

A) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous secondary material handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

B) If ~~Where~~ more than one police and fire department might respond to an emergency, agreements designating primary emergency

authority to a specific police department and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

C) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

D) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

2) When state or local authorities decline to enter into the arrangements required by this subsection (f), the hazardous secondary material generator or an intermediate or reclamation facility ~~operating under a verified facility determination under 35 Ill. Adm. Code 720.131(d)~~ must document the refusal in the operating record.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.511 Emergency Procedures for Facilities Generating or Accumulating 6,000 kg or Less of Hazardous Secondary Material

A generator or an intermediate or reclamation facility ~~operating under a verified recycler variance under 35 Ill. Adm. Code 720.131(d)~~ that generates or accumulates 6,000 kg or less of hazardous secondary material must comply with the following requirements:

a) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in subsection (d). This employee is the emergency coordinator.

b) The generator or intermediate or reclamation facility ~~operating under a verified recycler variance under 35 Ill. Adm. Code 720.131(d)~~ must post the following information next to the telephone:

1) The name and telephone number of the emergency coordinator;

2) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

3) The telephone number of the fire department, unless the facility has a direct alarm.

c) The generator or an intermediate or reclamation facility ~~operating under a verified recycler variance under 35 Ill. Adm. Code 720.131(d)~~ must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

d) The emergency coordinator or ~~his or her~~their designee must respond to any emergencies that arise. The applicable responses are as follows:

1) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

2) In the event of a spill, contain the flow of hazardous waste to the extent possible and, as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil;

3) In the event of a fire, explosion, or other release that could threaten human health outside the facility or when the generator or an intermediate or reclamation facility ~~operating under a verified facility determination under 35 Ill. Adm. Code 720.131(d)~~ has knowledge that a spill has reached surface water, the generator or an intermediate or reclamation facility ~~operating under a~~ verified recycler variance ~~solid waste determination under 35 Ill. Adm. Code 720.131(d)~~ must immediately notify the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following information:

A) The name, address, and USEPA identification number of the facility;

B) The date, time, and type of incident (e.g., spill or fire);

C) The quantity and type of hazardous waste involved in the incident;

D) The extent of injuries, if any; and

E) The estimated quantity and disposition of recovered materials, if any.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.520 Contingency Planning and Emergency Procedures for Facilities Generating or Accumulating More Than 6,000 kg of Hazardous Secondary Material

A generator or an intermediate or reclamation facility ~~operating under a verified recycler variance under 35 Ill. Adm. Code 720.131(d)~~ that generates or accumulates more than 6,000 kg of hazardous secondary material must comply with the following requirements:

a) Purpose of and Implementing ~~Implementation of~~ Contingency Plan

1) Each generator or an intermediate or reclamation facility ~~operating under a verified facility determination under 35 Ill. Adm. Code 720.131(d)~~ that accumulates more than 6,000 kg of hazardous secondary material must have a contingency plan for ~~his~~ its facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water.

2) The provisions of the contingency plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous secondary material or hazardous secondary material constituents that could threaten human health or the environment.

b) Content of Contingency Plan

1) The contingency plan must describe the actions facility personnel must take to comply with subsections (a) and (f) in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water at the facility.

2) If the generator or an intermediate or reclamation facility ~~operating under a verified facility determination under 35 Ill. Adm. Code 720.131(d)~~ accumulating more than 6,000 kg of hazardous secondary material has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan ~~in accordance with~~under 40 CFR 112, or some other emergency or contingency plan, the facility needs only amend that plan to incorporate hazardous secondary material management provisions that are sufficient to comply with ~~the requirements of~~ this Part. The hazardous secondary material generator or an intermediate or reclamation facility ~~operating under a verified recycler variance under 35 Ill. Adm. Code 720.131(d)~~ may develop one contingency plan that ~~which~~ meets all regulatory requirements. When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

BOARD NOTE: USEPA has recommended that the contingency plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan").

3) The contingency plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, under ~~pursuant to~~ 35 Ill. Adm. Code 722.510(f).

4) The contingency plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (e)), and this list must be kept up to date~~up-to-date~~. If ~~Where~~ more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

5) The contingency plan must include a list of all emergency equipment at the facility (like ~~such as~~ fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), if ~~where~~ this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each emergency equipment item on the list, and a brief outline of its capabilities.

6) The contingency plan must include an evacuation plan for facility personnel if ~~where~~ there is a possibility that evacuation could be necessary. This evacuation plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (if ~~in cases where~~ the primary routes could be blocked by releases of hazardous secondary material or fires).

c) Copies of Contingency Plan. The facility owner or operator must do as follows with the contingency plan and all revisions to the plan:

1) Maintain a copy at the facility; and

2) Submit a copy to every local police department, fire department, hospital, and State and local emergency response team that may be called upon to provide emergency services.

d) Amendment of Contingency Plan. The facility owner or operator must review and immediately amend its contingency plan, if necessary, whenever any of the following occurs:

1) Applicable regulations are revised;

2) The plan fails in an emergency;

3) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous secondary material or hazardous secondary material constituents, or the facility changes the response necessary in an emergency;

4) The list of emergency coordinators changes; or

5) The list of emergency equipment changes.

e) Emergency Coordinator. At all times, there must be at least one employee, either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time), with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of hazardous secondary materials handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled out in subsection (f). Applicable responsibilities for the emergency coordinator vary, depending on factors like ~~such as~~ type and variety of hazardous secondary materials handled by the facility, and type and complexity of the facility.

f) Emergency Procedures

1) Whenever there is an imminent or actual emergency ~~situation~~, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

A) Activate internal facility alarms or communication systems, when applicable, to notify all facility personnel; and

B) Notify appropriate State or local agencies with designated response roles if their help is needed.

2) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

3) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or

asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

4) If the emergency coordinator determines that the facility has had a release, fire, or explosion that ~~which~~ could threaten human health, or the environment, outside the facility, the emergency coordinator must report ~~his or her~~its findings as follows:

A) If the emergency coordinator's assessment indicates that evacuating ~~evacuation of~~ local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

B) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following information:

i) The name and telephone number of the reporter;

ii) The name and address of facility;

iii) The time and type of incident (e.g., release, fire);

iv) The name and quantity of materials involved, to the extent known;

v) The extent of injuries, if any; and

vi) The possible hazards to human health, or the environment, outside the facility.

5) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous secondary material at the facility. These measures must include, when applicable, stopping processes and operations, collecting, and containing released material, and removing or isolating containers.

6) If the facility stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas

generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

7) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered secondary material, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the hazardous secondary material generator can demonstrate, in ~~accordance~~ compliance with Section 721.103(c) or (d), that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage the recovered material in ~~accordance~~ compliance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and 725.

8) The emergency coordinator must ensure that the following has occurred in the affected areas of the facility:

A) ~~No~~ Any secondary material that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

9) The hazardous secondary material generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the emergency coordinator must submit a written report on the incident to the Regional Administrator. The report must include the following information:

A) The name, address, and telephone number of the hazardous secondary material generator;

B) The name, address, and telephone number of the facility;

C) The date, time, and type of incident (e.g., fire, explosion, etc.);

D) The name and quantity of materials involved;

E) The extent of injuries, if any;

F) An assessment of actual or potential hazards to human health or the environment, when this is applicable; and

G) The estimated quantity and disposition of recovered material that resulted from the incident.

g) Personnel Training. All employees must be thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 721.933 Standards: Closed-Vent Systems and Control Devices

a) Applicability

1) The remanufacturer or other person that stores or treats the hazardous secondary materials in hazardous secondary material management units using closed-vent systems and control devices used to comply with provisions of this Part must comply with the provisions of this Section.

2) This subsection (a)(2) corresponds with 40 CFR 261.1033, which USEPA has marked "reserved". This statement maintains structural consistency with the federal regulations.

b) A control device involving vapor recovery (e.g., a condenser or adsorber) must be designed and operated to recover the organic vapors vented to it with an efficiency of 95 weight percent or greater unless the total organic emission limits of Section 721.932(a)(1) for all affected process vents can be attained at an efficiency less than 95 weight percent.

c) An enclosed combustion device (e.g., a vapor incinerator, boiler, or process heater) must be designed and operated to reduce the organic emissions vented to it by 95 weight percent or greater; to achieve a total organic compound concentration of 20 ppmv, expressed as the sum of the actual compounds, not carbon equivalents, on a dry basis corrected to three percent oxygen; or to provide a minimum residence time of 0.50 seconds at a minimum temperature of 760 °C. If a boiler or process heater is used as the control device, then the vent stream must be introduced into the flame zone of the boiler or process heater.

d) Flares

1) A flare must be designed for and operated with no visible emissions, as determined by the methods specified in subsection (e)(1), except for periods not to exceed a total of five minutes during any two consecutive hours.

2) The owner or operator must operate a ~~A~~ flare ~~must be operated~~ with a flame present at all times, as determined by the methods specified in subsection (f)(2)(C).

3) A flare must be used only if the net heating value of the gas being combusted is 11.2 MJ/scm (300 Btu/scf) or greater if the flare is steam-assisted or air-assisted; or if the net heating value of the gas being combusted is 7.45 MJ/scm (200 Btu/scf) or greater if the flare is non-assisted. The net heating value of the gas being combusted must be determined by the methods specified in subsection (e)(2).

4) Exit Velocity

A) A steam-assisted or unassisted ~~nonassisted~~ flare must be designed for and operated with an exit velocity, as determined by the methods specified in subsection (e)(3), less than 18.3 m/s (60 ft/s), except as provided in subsections (d)(4)(B) and (C).

B) A steam-assisted or non-assisted flare designed for and operated with an exit velocity, as determined by the methods specified in subsection (e)(3), equal to or greater than 18.3 m/s (60 ft/s) but less than 122 m/s (400 ft/s) is allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf).

C) A steam-assisted or non-assisted flare designed for and operated with an exit velocity, as determined by the methods specified in subsection (e)(3), less than the velocity, V_{max}, as determined by the method specified in subsection (e)(4), and less than 122 m/s (400 ft/s) is allowed.

5) An air-assisted flare must be designed and operated with an exit velocity less than the velocity, V_{max}, as determined by the method specified in subsection (e)(5).

6) A flare used to comply with this Section must be steam-assisted, air-assisted, or unassisted.

e) Compliance Determination and Equations

1) Reference Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111, must be used to determine the compliance of a flare with the visible emission provisions of this Subpart AA. The observation period is two hours and must be used according to Method 22.

2) The net heating value of the gas being combusted in a flare must be calculated using the following equation:

$$H_T = K\left[\sum_{i=1}^{n} C_i H_i\right]$$

Where:

H_T = Net heating value of the sample, MJ/scm; if ~~where~~ the net enthalpy per mole of offgas is based on combustion at 25°C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mol is 20°C

K = Constant, 1.74×10^{-7} (1/ppm) (g mol/scm) (MJ/kcal) if ~~where~~ standard temperature for (g mol/scm) is 20°C

C_i = Concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111, and measured for hydrogen and carbon monoxide by ASTM D 1946-90, incorporated by reference in Section 720.111

H_i = Net heat of combustion of sample component i, kcal/g mol at 25°C and 760 mm Hg. The heats of combustion may be determined using ASTM D 2382–83, incorporated by reference in Section 720.111, if published values are not available or cannot be calculated.

3) The actual exit velocity of a flare must be determined by dividing the volumetric flow rate (in units of standard temperature and pressure), as determined by Reference Methods 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), or 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts) in appendix A to 40 CFR 60 (Test Methods), each incorporated by reference in 35 Ill. Adm. Code 720.111, as appropriate, by the unobstructed (free) cross-sectional area of the flare tip.

4) The maximum allowed velocity in m/s, V_{max}, for a flare complying with subsection (d)(4)(C) must be determined by the following equation:

$$\log_{10}(V_{max}) = \frac{(H_T + 28.8)}{31.7}$$

Where:

H_T = The net heating value as determined in subsection (e)(2)

5) The maximum allowed velocity in m/s, V_{max}, for an air-assisted flare must be determined by the following equation:

$$V_{max} = 8.706 + 0.7084\ (H_T)$$

Where:

H_T = The net heating value as determined in subsection (e)(2)

f) The remanufacturer or other person that stores or treats the hazardous secondary material must monitor and inspect each control device required to comply with this section to ensure proper operation and maintenance of the control device by implementing the following requirements:

1) Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow indicator that provides a record of vent stream flow from each affected process vent to the control device at least once every hour. The flow indicator sensor must be installed in the vent stream at the nearest feasible point to the control device inlet but before the point at which the vent streams are combined.

2) Install, calibrate, maintain, and operate according to the manufacturer's specifications a device to continuously monitor control device operation as specified below:

A) For a thermal vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device must have an accuracy of ±1 percent of the temperature being monitored in °C or ±0.5°C, whichever is greater. The temperature sensor must be installed at a location in the combustion chamber downstream of the combustion zone.

B) For a catalytic vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature at two locations and have an accuracy of ±1 percent of the temperature being monitored in °C or ±0.5°C, whichever is greater. One temperature sensor must be installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor must be installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

C) For a flare, a heat sensing monitoring device equipped with a continuous recorder that indicates the continuous ignition of the pilot flame.

D) For a boiler or process heater having a design heat input capacity less than 44 MW, a temperature monitoring device equipped with a continuous recorder. The device must have an accuracy of ±1 percent of the temperature being monitored in °C or ±0.5°C, whichever is greater. The temperature sensor must be installed at a location in the furnace downstream of the combustion zone.

E) For a boiler or process heater having a design heat input capacity greater than or equal to 44 MW, a monitoring device equipped with a continuous recorder to measure a parameter(s) that indicates good combustion operating practices are being used.

F) For a condenser, either:

i) A monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the condenser; or

ii) A temperature monitoring device equipped with a continuous recorder. The device must be capable of monitoring temperature with an accuracy of ±1 percent of the temperature being monitored in °C or ±0.5 °C, whichever is greater. The temperature sensor must be installed at a location in the exhaust vent stream from the condenser exit (i.e., product side).

G) For a carbon adsorption system that regenerates the carbon bed directly in the control device like ~~such as~~ a fixed-bed carbon adsorber, either:

i) A monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the carbon bed; or

ii) A monitoring device equipped with a continuous recorder to measure a parameter that indicates the carbon bed is regenerated on a regular, predetermined time cycle.

3) Inspect the readings from each monitoring device required by subsections (f)(1) and (f)(2) at least once each operating day to check control device

operation and, if necessary, immediately implement the corrective measures necessary to ensure the control device operates in compliance with ~~the requirements of~~ this Section.

g) A remanufacturer or other person that stores or treats hazardous secondary material in a hazardous secondary material management unit using a carbon adsorption system like ~~such as~~ a fixed-bed carbon adsorber that regenerates the carbon bed directly onsite in the control device must replace the existing carbon in the control device with fresh carbon at a regular, predetermined time interval that is no longer than the carbon service life established as a requirement of Section 721.935(b)(4)(C)(vi).

h) A remanufacturer or other person that stores or treats hazardous secondary material in a hazardous secondary material management unit using a carbon adsorption system like ~~such as~~ a carbon canister that does not regenerate the carbon bed directly onsite in the control device must replace the existing carbon in the control device with fresh carbon on a regular basis by using one of the following procedures:

1) Monitor the concentration level of the organic compounds in the exhaust vent stream from the carbon adsorption system on a regular schedule~~,~~ and replace the existing carbon with fresh carbon immediately when carbon breakthrough is indicated. The monitoring frequency must be daily or at an interval no greater than 20 percent of the time required to consume the total carbon working capacity established as a requirement of Section 721.935(b)(4)(C)(vii), whichever is longer.

2) Replace the existing carbon with fresh carbon at a regular, predetermined time interval that is less than the design carbon replacement interval established as a requirement of Section 721.935(b)(4)(C)(vii).

i) An alternative operational or process parameter may be monitored if it can be demonstrated that another parameter will ensure that the control device is operated in conformance with these standards and the control device's design specifications.

j) A remanufacturer or other person that stores or treats hazardous secondary material at an affected facility seeking to comply with the provisions of this part by using a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system must ~~is required to~~ develop documentation including sufficient information to describe the control device operation and identify the process parameter or parameters that indicate proper operation and maintenance of the control device.

k) A closed-vent system must meet either of the following design requirements:

1) A closed-vent system must be designed to operate with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background as determined by the procedure in Section 721.934(b), and by visual inspections; or

2) A closed-vent system must be designed to operate at a pressure below atmospheric pressure. The system must be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating.

l) The remanufacturer or other person that stores or treats the hazardous secondary material must monitor and inspect each closed-vent system required to comply with this section to ensure proper operation and maintenance of the closed-vent system by implementing the following requirements:

1) Each closed-vent system that is used to comply with subsection (k)(1) must be inspected and monitored in ~~accordance~~ compliance with the following requirements:

A) An initial leak detection monitoring of the closed-vent system must be conducted by the remanufacturer or other person that stores or treats the hazardous secondary material on or before the date that the system becomes subject to this section. The remanufacturer or other person that stores or treats the hazardous secondary material must monitor the closed-vent system components and connections using the procedures specified in Section 721.934(b) to demonstrate that the closed-vent system operates with no detectable emissions, as indicated by an instrument reading of less than 500 ppmv above background.

B) After initial leak detection monitoring required in subsection (l)(1)(A), the remanufacturer or other person that stores or treats the hazardous secondary material must inspect and monitor the closed-vent system as follows:

i) Closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed (e.g., a welded joint between two sections of hard piping or a bolted and gasketed ducting flange) must be visually inspected at least once per year to check for defects that could result in air pollutant emissions. The remanufacturer or other person that stores or treats the hazardous secondary material must monitor a component or connection using the procedures specified in Section 721.934(b) to demonstrate that it operates with no detectable emissions following any time

the component is repaired or replaced (e.g., a section of damaged hard piping is replaced with new hard piping) or the connection is unsealed (e.g., a flange is unbolted).

ii) Closed-vent system components or connections other than those specified in subsection (l)(1)(B)(i) must be monitored annually and at other times as requested by the Agency, except as provided for in subsection (o), using the procedures specified in Section 721.934(b) to demonstrate that the components or connections operate with no detectable emissions. The Agency must make any request for monitoring in writing to the remanufacturer or other person that stores or treats the hazardous secondary material.

C) ~~In the event that~~If a defect or leak is detected, the remanufacturer or other person that stores or treats the hazardous secondary material must repair the defect or leak in ~~accordance~~ compliance with ~~the requirements of~~ subsection (l)(3).

D) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the inspection and monitoring in ~~accordance~~ compliance with the requirements specified in Section 721.935.

2) Each closed-vent system that is used to comply with subsection (k)(2) must be inspected and monitored ~~in accordance with the following requirements~~as follows:

A) The closed-vent system must be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include~~, but are not limited to,~~ visible cracks, holes, or gaps in ductwork or piping or loose connections.

B) The remanufacturer or other person that stores or treats the hazardous secondary material must perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to this Section. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material must perform the inspections at least once every year.

C) ~~In the event that~~If a defect or leak is detected, the remanufacturer or other person that stores or treats the hazardous secondary

material must repair the defect or the leak in ~~accordance~~ compliance with ~~the requirements of~~ subsection (l)(3).

D) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the inspection and monitoring in ~~accordance~~ compliance with the requirements specified in Section 721.935.

3) The remanufacturer or other person that stores or treats the hazardous secondary material must repair all detected defects as follows:

A) Detectable emissions, as indicated by visual inspection, or by an instrument reading greater than 500 ppmv above background, must be controlled as soon as practicable, but not later than 15 calendar days after the emission is detected, except as provided for in subsection (l)(3)(C).

B) A first attempt at repair must be made ~~no later than~~within 5 calendar days after the emission is detected.

C) Delay of repair of a closed-vent system for which leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown, or if the remanufacturer or other person that stores or treats the hazardous secondary material determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of the ~~such~~ equipment must be completed by the end of the next process unit shutdown.

D) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the defect repair in ~~accordance~~ compliance with the requirements specified in Section 721.935.

m) Closed-vent systems and control devices used to comply with provisions of this Subpart AA must be operated at all times when emissions may be vented to them.

n) The owner or operator using a carbon adsorption system to control air pollutant emissions must document that all carbon that is a hazardous waste and that is removed from the control device is managed in one of the following manners, regardless of the average volatile organic concentration of the carbon:

1) Regenerated or reactivated in a thermal treatment unit that meets one of the following:

A) The owner or operator of the unit has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements ~~the requirements of~~ Subpart X; or

B) The unit is equipped with and operating air emission controls in ~~accordance~~ compliance with the applicable requirements of Subparts AA and CC or Subparts AA and CC of 35 Ill. Adm. Code 725; or

C) The unit is equipped with and operating air emission controls in ~~accordance~~ compliance with a national emission standard for hazardous air pollutants under 40 CFR 61 (National Emission Standards for Hazardous Air Pollutants) or 40 CFR 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).

2) Incinerated in a hazardous waste incinerator for which the owner or operator either:

A) Has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements ~~the requirements of~~ Subpart O; or

B) Has designed and operates the incinerator in ~~accordance~~ compliance with the interim status requirements of Subpart O of 35 Ill. Adm. Code 725.

3) Burned in a boiler or industrial furnace for which the owner or operator either:

A) Has been issued a final permit under 35 Ill. Adm. Code 702, 703, and 705 that implements ~~the requirements of~~ Subpart H of 35 Ill. Adm. Code 726; or

B) Has designed and operates the boiler or industrial furnace in ~~accordance~~ compliance with the interim status requirements of Subpart H of 35 Ill. Adm. Code 726.

o) Any components of a closed-vent system that are designated, as described in Section 721.935(c)(9), as unsafe to monitor are exempt from ~~the requirements of~~ subsection (l)(1)(B)(ii) if both of the following conditions are ~~fulfilled~~met:

1) The remanufacturer or other person that stores or treats the hazardous secondary material in a hazardous secondary material management unit using a closed-vent system determines that the components of the closed-vent system are unsafe to monitor because monitoring personnel would be

exposed to an immediate danger as a consequence of complying with subsection (l)(1)(B)(ii); and

2) The remanufacturer or other person that stores or treats the hazardous secondary material in a hazardous secondary material management unit using a closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in subsection (l)(1)(B)(ii) as frequently as practicable during safe-to-monitor times.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS AND CONTAINERS

Section 721.983 Material Determination Procedures

a) Procedure to Determine Average Volatile Organic (VO) Concentration

1) Determining average VO concentration at the point of material origination. A remanufacturer or other person that stores or treats the hazardous secondary material must determine the average VO concentration at the point of material origination for each hazardous secondary material placed in a hazardous secondary material management unit exempted under the provisions of Section 721.982(c)~~(1)~~ from using air emission controls in ~~accordance~~ compliance with standards specified in Sections 721.984 through 721.987, as applicable to the hazardous secondary material management unit.

A) An initial determination of the average VO concentration of the material stream must be made before the first time any portion of the material in the hazardous secondary material stream is placed in a hazardous secondary material management unit exempted under the provisions of Section 721.982(c)~~(1)~~ from using air emission controls, and thereafter an initial determination of the average VO concentration of the material stream must be made for each averaging period that a hazardous secondary material is managed in the unit; and

B) Perform a new material determination whenever changes to the source generating the material stream are reasonably likely to cause the average VO concentration of the hazardous secondary material to increase to a level that is equal to or greater than the applicable VO concentration limits specified in Section 721.982.

2) Determining ~~Determination of~~ average VO concentration using direct measurement or knowledge. For a material determination that is required by subsection (a)(1), the average VO concentration of a hazardous secondary material at the point of material origination must be determined using either direct measurement, as specified in subsection (a)(3), or by knowledge of the hazardous secondary material, as specified in subsection (a)(4).

3) Direct measurement to determine average VO concentration of a hazardous secondary material at the point of material origination, as follows:

A) Identification. The remanufacturer or other person that stores or treats the hazardous secondary material must identify and record in a log that is kept at the facility the point of material origination for the hazardous secondary material.

B) Sampling. Samples of the hazardous secondary material stream must be collected at the point of material origination in a manner so ~~such~~ that volatilization of organics contained in the material and in the subsequent sample is minimized and an adequately representative sample is collected and maintained for analysis by the selected method.

i) The averaging period to be used for determining the average VO concentration for the hazardous secondary material stream on a mass-weighted average basis must be designated and recorded. The averaging period can represent any time interval that the remanufacturer or other person that stores or treats the hazardous secondary material determines is appropriate for the hazardous secondary material stream but must not exceed one year.

ii) ~~A sufficient number of~~Enough samples, but at least~~no less than~~ four ~~samples~~, must be collected and analyzed for a hazardous secondary material determination. The ~~All of the~~ samples for a given material determination must be collected within a one-hour period. The average of the four or more sample results constitutes a material determination for the material stream. One or more material determinations may be required to represent the complete range of material compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous secondary material stream. Examples of these ~~such~~ normal variations are seasonal

variations in material quantity or fluctuations in ambient temperature.

iii) All samples must be collected and handled ~~in accordance with~~according to written procedures prepared by the remanufacturer or other person that stores or treats the hazardous secondary material and documented in a site sampling plan. This plan must describe the procedure by which representative samples of the hazardous secondary material stream are collected so ~~such~~ that a minimum loss of organics occurs throughout the sample collection and handling process, and by which sample integrity is maintained. A copy of the written sampling plan must be maintained at the facility. An example of acceptable sample collection and handling procedures for a total volatile organic constituent concentration may be found in Reference Method 25D (Determination of the Volatile Organic Concentration of Waste Samples) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111.

iv) Sufficient information, as specified in the "site sampling plan" required under subsection (a)(3)(B)(iii), must be prepared and recorded to document the material quantity represented by the samples and, as applicable, the operating conditions for the source or process generating the hazardous secondary material represented by the samples.

C) Analysis. Each collected sample must be prepared and analyzed ~~in accordance with~~according to Reference Method 25D (Determination of the Volatile Organic Concentration of Waste Samples) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111, for the total concentration of volatile organic constituents, or using one or more methods when the individual organic compound concentrations are identified and summed and the summed material concentration accounts for and reflects all organic compounds in the material with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3) at 25 ºC. At the discretion of the remanufacturer or other person that stores or treats the hazardous secondary material, the test data obtained may be adjusted by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry's law constant value of less than 0.1 Y/X

at 25ºC. To adjust these data, the measured concentration of each individual chemical constituent contained in the material is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}). If the remanufacturer or other person that stores or treats the hazardous secondary material elects to adjust the test data, the adjustment must be made to all individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25ºC contained in the material. To adjust these data, the measured concentration of each individual chemical constituent contained in the waste is multiplied by the constituent-specific adjustment factors (f_{m25D}) approved in writing by the Agency. Other test methods may be used if they meet the requirements in subsection (a)(3)(C)(i) or (a)(3)(C)(ii) and provided the requirement to reflect all organic compounds in the material with Henry's law constant values greater than or equal to 0.1 Y/X (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3) at 25 ºC, is met.

i) Any USEPA standard method that has been validated in ~~accordance~~ compliance with appendix D to 40 CFR 63 (Alternative Validation Procedure for EPA Waste and Wastewater Methods), incorporated by reference in 35 Ill. Adm. Code 720.111.

ii) Any other analysis method that has been validated in ~~accordance with~~according to the procedures specified in Section 5.1 or Section 5.3, and the corresponding calculations in Section 6.1 or Section 6.3, of Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111. The data are acceptable if they meet the criteria specified in Section 6.1.5 or Section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

D) Calculations

i) The average VO concentration ($\overline{C}$) on a mass-weighted basis must be calculated by using the results for all material determinations conducted in ~~accordance~~ compliance with subsections (a)(3)(B) and (a)(3)(C) and the following equation:

$$\overline{C} = \frac{1}{Q_T} \times \sum_{i=1}^{n} Q_i \times C_i$$

Where:

$\overline{C}$ = Average VO concentration of the hazardous secondary material at the point of material origination on a mass-weighted basis, ppmw

i = Individual material determination "i" of the hazardous secondary material

n = Total number of material determinations of the hazardous secondary material conducted for the averaging period (not to exceed one year)

Q_i = Mass quantity of hazardous secondary material stream represented by C_i, kg/hr

Q_T = Total mass quantity of hazardous secondary material during the averaging period, kg/hr

C_i = Measured VO concentration of material determination "i" as determined in ~~accordance~~ compliance with ~~the requirements of~~ subsection (a)(3)(C) (i.e., the average of the four or more samples specified in subsection (a)(3)(B)(ii)), ppmw

ii) For ~~the purpose of~~ determining C_i, for individual material samples analyzed in ~~accordance~~ compliance with subsection (a)(3)(C), the remanufacturer or other person that stores or treats the hazardous secondary material must account for VO concentrations determined to be below the detection limit ~~of detection~~ of the analytical method by using the VO concentration that is one-half the blank value determined in the method at section 4.4 of Reference Method 25D, if Reference Method 25D is used for the analysis; or that is one-half the sum of the limits of detection established for each organic constituent in the material that has a Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m^3) at 25ºC, if any other analytical method is used.

4) Use of knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material to determine average VO concentration of a hazardous secondary material at the point of material origination.

A) Documentation must be prepared that presents the information used as the basis for the knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material of the hazardous secondary material stream's average VO concentration. Examples of information that may be used as the basis for knowledge include material balances for the source or process generating the hazardous secondary material stream; constituent-specific chemical test data for the hazardous secondary material stream from previous testing that are still applicable to the current material stream; previous test data for other locations managing the same type of material stream; or other knowledge based on information included in shipping papers or material certification notices.

B) If test data are used as the basis for knowledge, then the remanufacturer or other person that stores or treats the hazardous secondary material must document the test method, sampling protocol, and the means by which sampling variability and analytical variability are accounted for in determining ~~the determination of~~ the average VO concentration. For example, a remanufacturer or other person that stores or treats the hazardous secondary material may use organic concentration test data for the hazardous secondary material stream that are validated ~~in accordance~~according to ~~with~~ Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (Test Methods) as the basis for knowledge of the material.

C) A remanufacturer or other person that stores or treats the hazardous secondary material using chemical constituent-specific concentration test data as the basis for knowledge of the hazardous secondary material may adjust the test data to the corresponding average VO concentration value that ~~which~~ would have been obtained had the material samples been analyzed using Reference Method 25D (Determination of the Volatile Organic Concentration of Waste Samples) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b). To adjust these data, the measured concentration for each individual chemical constituent contained in the material is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}).

D) In the event that the Agency and the remanufacture or other person that stores or treats the hazardous secondary material disagree on a determination of the average VO concentration for a hazardous secondary material stream using knowledge, then the results from a determination of average VO concentration using direct

measurement, as specified in subsection (a)(3), must be used to establish ~~in~~ compliance with the applicable requirements of this Subpart CC. The Agency may perform or request that the remanufacturer or other person that stores or treats the hazardous secondary material perform this determination using direct measurement. The remanufacturer or other person that stores or treats the hazardous secondary material may choose one or more appropriate methods to analyze each collected sample ~~in accordance with~~ under~~the requirements of~~ subsection (a)(3)(C). The Agency must state any disagreement on determination of the average VO concentration for a hazardous secondary material stream using knowledge in writing to the remanufacturer or other person that stores or treats the hazardous secondary material.

b) This subsection (b) corresponds with 40 CFR 261.1083(b), marked "reserved" by USEPA. This statement maintains structural consistency with the federal regulations.

c) Procedure to Determine the Maximum Organic Vapor Pressure of a Hazardous Secondary Material in a Tank

1) A remanufacturer or other person that stores or treats the hazardous secondary material must determine the maximum organic vapor pressure for each hazardous secondary material placed in a tank using Tank Level 1 controls in ~~accordance~~ compliance with standards specified in Section 721.984(c).

2) A remanufacturer or other person that stores or treats the hazardous secondary material must use either direct measurement as specified in subsection (c)(3) or knowledge of the waste as specified by subsection (c)(4) to determine the maximum organic vapor pressure that ~~which~~ is representative of the hazardous secondary material composition stored or treated in the tank.

3) Direct Measurement to Determine the Maximum Organic Vapor Pressure of a Hazardous Secondary Material

A) Sampling. ~~The owner or operator must collect enough~~ ~~A sufficient number of~~ Enough samples must be collected to be representative of the hazardous secondary material contained in the tank. All samples must be collected and handled ~~in accordance with~~according to written procedures prepared by the remanufacturer or other person that stores or treats the hazardous secondary material and documented in a site sampling plan. This plan must describe the procedure by which representative samples of the hazardous secondary material are collected so ~~such~~ that a

minimum loss of organics occurs throughout the sample collection and handling process and by which sample integrity is maintained. A copy of the written sampling plan must be maintained at the facility. An example of acceptable sample collection and handling procedures may be found in Reference Method 25D (Determination of the Volatile Organic Concentration of Waste Samples) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

B) Analysis. Any appropriate one of the following methods may be used to analyze the samples and compute the maximum organic vapor pressure of the hazardous secondary material:

i) Reference Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b);

ii) Methods described in American Petroleum Institute Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks", incorporated by reference in 35 Ill. Adm. Code 720.111;

iii) Methods obtained from standard reference texts;

iv) ASTM Method 2879–92, incorporated by reference in 35 Ill. Adm. Code 720.111; and

v) Any other method approved in writing by the Agency.

4) Use of Knowledge to Determine the Maximum Organic Vapor Pressure of ~~a~~ the Hazardous Secondary Material. Documentation must be prepared and recorded that presents the information used as the basis for the knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material that the maximum organic vapor pressure of the hazardous secondary material is less than the maximum vapor pressure limit listed in Section 721.984(b)(1)(A) for the applicable tank design capacity category. An example of information that may be used is documentation that the hazardous secondary material is generated by a process for which at other locations it previously has been determined by direct measurement that the hazardous secondary material's waste maximum organic vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category.

d) Procedure for Determining No Detectable Organic Emissions for the Purpose of Complying with this Subpart CC

1) The test must be conducted ~~in accordance with~~according to the procedures specified in Reference Method 21 (Determination of Volatile Organic Compound Leaks) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111. Each potential leak interface (i.e., a location if ~~where~~ organic vapor leakage could occur) on the cover and associated closure devices must be checked. Potential leak interfaces that are associated with covers and closure devices include~~, but are not limited to,~~ the interface of the cover and its foundation mounting, the periphery of any opening on the cover and its associated closure device, and the sealing seat interface on a spring-loaded pressure relief valve.

2) The test must be performed when the unit contains a hazardous secondary material having an organic concentration representative of the range of concentrations for the hazardous secondary material expected to be managed in the unit. During the test, the cover and closure devices must be secured in the closed position.

3) The detection instrument must meet the performance criteria of Reference Method 21, except the instrument response factor criteria in section 3.1.2(a) of Reference Method 21, must be for the average composition of the organic constituents in the hazardous secondary material placed in the hazardous secondary management unit, not for each individual organic constituent.

4) The detection instrument must be calibrated before use on each day of its use by the procedures specified in Reference Method 21.

5) Calibration gases must be as follows:

   A) Zero air (less than 10 ppmv hydrocarbon in air)~~;~~ and

   B) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppmv methane or n-hexane.

6) The background level must be determined according to the procedures in Reference Method 21.

7) Each potential leak interface must be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Reference Method 21. If the configuration of the cover or closure device prevents a complete traverse of the interface, all accessible portions of the interface must be sampled. If the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn (e.g., some pressure relief

devices), the instrument probe inlet must be placed at approximately the center of the exhaust area to the atmosphere.

8) The arithmetic difference between the maximum organic concentration indicated by the instrument and the background level must be compared with the value of 500 ppmv except when monitoring a seal around a rotating shaft that passes through a cover opening, in which case the comparison must be as specified in subsection (d)(9). If the difference is less than 500 ppmv, then the potential leak interface is determined to operate with no detectable organic emissions.

9) For the seals around a rotating shaft that passes through a cover opening, the arithmetic difference between the maximum organic concentration indicated by the instrument and the background level must be compared with the value of 10,000 ppmw. If the difference is less than 10,000 ppmw, then the potential leak interface is determined to operate with no detectable organic emissions.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.984 Standards: Tanks

a) The provisions of this Section apply to the control of air pollutant emissions from tanks for which Section 721.982(b) references the use of this Section for air emission control.

b) The remanufacturer or other person that stores or treats the hazardous secondary material must control air pollutant emissions from each tank subject to this Section in ~~accordance~~ compliance with the following requirements, as applicable:

1) For a tank that manages hazardous secondary material that meets ~~all of~~ the conditions specified in subsections (b)(1)(A) through (b)(1)(C), the remanufacturer or other person that stores or treats the hazardous secondary material must control air pollutant emissions from the tank in ~~accordance~~ compliance with the Tank Level 1 controls specified in subsection (c) or the Tank Level 2 controls specified in subsection (d).

A) The hazardous secondary material in the tank has a maximum organic vapor pressure that is less than the maximum organic vapor pressure limit for the tank's design capacity category, as follows:

i) For a tank design capacity equal to or greater than 151 m^3, the maximum organic vapor pressure limit for the tank is 5.2 kPa.

ii) For a tank design capacity equal to or greater than 75 m^3 but less than 151 m^3, the maximum organic vapor pressure limit for the tank is 27.6 kPa.

iii) For a tank design capacity less than 75 m^3, the maximum organic vapor pressure limit for the tank is 76.6 kPa.

B) The hazardous secondary material in the tank is not heated by the remanufacturer or other person that stores or treats the hazardous secondary material to a temperature that is greater than the temperature at which the maximum organic vapor pressure of the hazardous secondary material is determined for ~~the purpose of~~ complying with subsection (b)(1)(A).

2) For a tank that manages hazardous secondary material that does not meet ~~all of~~ the conditions specified in subsections (b)(1)(A) through (b)(1)(C), the remanufacturer or other person that stores or treats the hazardous secondary material must control air pollutant emissions from the tank by using Tank Level 2 controls in ~~accordance~~ compliance with ~~the requirements of~~ subsection (d). An example of tanks required to use Tank Level 2 controls is a tank for which the hazardous secondary material in the tank has a maximum organic vapor pressure that is equal to or greater than the maximum organic vapor pressure limit for the tank's design capacity category, as specified in subsection (b)(1)(A).

c) A remanufacturer or other person that stores or treats the hazardous secondary material controlling air pollutant emissions from a tank using Tank Level 1 controls must meet the requirements specified in subsections (c)(1) through (c)(4):

1) The remanufacturer or other person that stores or treats that hazardous secondary material must determine the maximum organic vapor pressure for a hazardous secondary material to be managed in the tank using Tank Level 1 controls before the first time the hazardous secondary material is placed in the tank. The maximum organic vapor pressure must be determined using the procedures specified in Section 721.983(c). Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material must perform a new determination whenever changes to the hazardous secondary material managed in the tank could potentially cause the maximum organic vapor pressure to increase to a level that is equal to or greater than the maximum organic vapor pressure limit for the tank design capacity category specified in subsection (b)(1)(A), as applicable to the tank.

2) The tank must be equipped with a fixed roof designed to meet the following specifications:

A) The fixed roof and its closure devices must be designed to form a continuous barrier over the entire surface area of the hazardous secondary material in the tank. The fixed roof may be a separate cover installed on the tank (e.g., a removable cover mounted on an open-top tank) or may be an integral part of the tank structural design (e.g., a horizontal cylindrical tank equipped with a hatch).

B) The fixed roof must be installed in a manner so ~~such~~ that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall.

C) Each opening in the fixed roof, and any manifold system associated with the fixed roof, must ~~fulfill~~meet either of the following requirements:

i) It must be equipped with a closure device designed to operate so ~~such~~ that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device; or

ii) It must be connected by a closed-vent system that is vented to a control device. The control device must remove or destroy organics in the vent stream~~,~~ and must be operating whenever hazardous secondary material is managed in the tank, except as provided in this subsection (c)(2)(C)(ii). During any period of routine inspection, maintenance, or other activities needed for normal operations, and for removal of accumulated sludge or other residues from the bottom of the tank. During any period when it is necessary to provide access to the tank for performing the foregoing activities, venting of the vapor headspace underneath the fixed roof to the control device is not required, opening of closure devices is allowed, and removal of the fixed roof is allowed. After completing ~~Following completion of~~ the activity, the remanufacturer or other person that stores or treats the hazardous secondary material must promptly secure the closure device in the closed position or reinstall the cover, as applicable, and resume operating ~~operation of~~ the control device.

BOARD NOTE: This subsection (c)(2)(C)(ii) corresponds with 40 CFR 261.1083(c)(2)(iii)(B). The Board combined the texts of 40 CFR 261.1083(c)(2)(iii)(B)(*1*) and

(c)(2)(iii)(B)(*2*) into this single subsection to comport with codification requirements.

D) The fixed roof and its closure devices must be made of suitable materials that will minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices must include the organic vapor permeability; the effects of any contact with the hazardous secondary material or its vapors managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed.

3) Whenever a hazardous secondary material is in the tank, the fixed roof must be installed with each closure device secured in the closed position, except as follows:

A) Opening of closure devices or removal of the fixed roof is allowed at the following times:

i) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of these ~~such~~ activities include those times when a worker needs to open a port to sample the liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. After completing ~~Following completion of~~ the activity, the remanufacturer or other person that stores or treats the hazardous secondary material must promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

~~I~~

ii) To remove accumulated sludge or other residues from the bottom of tank.

B) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that ~~which~~ vents to the atmosphere is allowed during normal operations for ~~the purpose of~~ maintaining the tank internal pressure in ~~accordance~~ compliance with the tank design specifications. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so ~~such~~ that the device remains in the closed position whenever the tank

internal pressure is within the internal pressure operating range determined by the remanufacturer or other person that stores or treats the hazardous secondary material based on the tank manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the tank internal pressure exceeds the internal pressure operating range for the tank because ~~as a result~~ of loading operations or diurnal ambient temperature fluctuations.

C) Opening of a safety device, as defined in Section 721.981, is allowed at any time conditions require doing so to avoid an unsafe condition.

4) The remanufacturer or other person that stores or treats the hazardous secondary material must inspect the air emission control equipment in ~~accordance with~~according to the following requirements.

A) The fixed roof and its closure devices must be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include~~, but are not limited to,~~ visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

B) The remanufacturer or other person that stores or treats the hazardous secondary material must perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to this section. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material must perform the inspections at least once every year except under the special conditions provided for in subsection (l).

C) ~~In the event that~~If a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material must repair the defect in ~~accordance~~ compliance with ~~the requirements of~~ subsection (k).

D) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the

inspection in ~~accordance~~ compliance with the requirements specified in Section 721.989(b).

d) Remanufacturers or other persons that store or treat the hazardous secondary material controlling air pollutant emissions from a tank using Tank Level 2 controls must use one of the following tanks:

1) A fixed-roof tank equipped with an internal floating roof in ~~accordance~~compliance with ~~the requirements specified in~~ subsection (e);

2) A tank equipped with an external floating roof in ~~accordance~~compliance with ~~the requirements specified in~~ subsection (f);

3) A tank vented through a closed-vent system to a control device in ~~accordance~~compliance with ~~the requirements specified in~~ subsection (g);

4) A pressure tank designed and operated in ~~accordance~~compliance with ~~the requirements specified in~~ subsection (h); or

5) A tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in ~~accordance~~compliance with ~~the requirements specified in~~ subsection (i).

e) The remanufacturer or other person that stores or treats the hazardous secondary material that ~~who~~ controls air pollutant emissions from a tank using a fixed roof with an internal floating roof must meet the requirements specified in subsections (e)(1) through (e)(3).

1) The tank must be equipped with a fixed roof and an internal floating roof in ~~accordance~~ compliance with the following requirements:

A) The internal floating roof must be designed to float on the liquid surface except when the floating roof must be supported by the leg supports.

B) The internal floating roof must be equipped with a continuous seal between the wall of the tank and the floating roof edge that meets either of the following requirements:

i) A single continuous seal that is either a liquid-mounted seal or a metallic shoe seal, as defined in Section 721.981; or

ii) Two continuous seals mounted one above the other. The lower seal may be a vapor-mounted seal.

C) The internal floating roof must meet the following specifications:

i) Each opening in a noncontact internal floating roof except for automatic bleeder vents (vacuum breaker vents) and the rim space vents is to provide a projection below the liquid surface.

ii) Each opening in the internal floating roof must be equipped with a gasketed cover or a gasketed lid except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains.

iii) Each penetration of the internal floating roof for ~~the purpose of~~ sampling must have a slit fabric cover that covers at least 90 percent of the opening.

iv) Each automatic bleeder vent and rim space vent must be gasketed.

v) Each penetration of the internal floating roof that allows for passage of a ladder must have a gasketed sliding cover.

vi) Each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof must have a flexible fabric sleeve seal or a gasketed sliding cover.

2) The remanufacturer or other person that stores or treats the hazardous secondary material must operate the tank in ~~accordance~~compliance with the following requirements:

A) When the floating roof is resting on the leg supports, the process of filling, emptying, or refilling must be continuous and must be completed as soon as practical.

B) Automatic bleeder vents are always to be set closed ~~at all times~~ when the roof is floating, except when the roof is being floated off or is being landed on the leg supports.

C) Prior to filling the tank, each cover, access hatch, gauge float well or lid on any opening in the internal floating roof must be bolted or fastened closed (i.e., no visible gaps). Rim space vents are to be set to open only when the internal floating roof is not floating or when the pressure beneath the rim exceeds the manufacturer's recommended setting.

3) The remanufacturer or other person that stores or treats the hazardous secondary material must inspect the internal floating roof in ~~accordance with~~according to the following procedures ~~specified as follows~~:

A) The floating roof and its closure devices must be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include~~, but are not limited to,~~ the internal floating roof is not floating on the surface of the liquid inside the tank; liquid has accumulated on top of the internal floating roof; any portion of the roof seals have detached from the roof rim; holes, tears, or other openings are visible in the seal fabric; the gaskets no longer close off the hazardous secondary material surface from the atmosphere; or the slotted membrane has more than 10 percent open area.

B) The remanufacturer or other person that stores or treats the hazardous secondary material must inspect the internal floating roof components as follows, except as provided in subsection (e)(3)(C):

i) It must visually inspect the internal floating roof components through openings on the fixed roof ~~fixed roof~~ (e.g., manholes and roof hatches) at least once every 12 months after initial fill; and

ii) It must visually inspect the internal floating roof, primary seal, secondary seal (if one is in service), gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every 10 years.

C) As an alternative to performing the inspections specified in subsection (e)(3)(B), for an internal floating roof equipped with two continuous seals mounted one above the other, the remanufacturer or other person that stores or treats the hazardous secondary material must visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals (if any) each time the tank is emptied and degassed and at least every five years.

D) Prior to each inspection required by subsection (e)(3)(B) or (e)(3)(C), the remanufacturer or other person that stores or treats the hazardous secondary material must notify the Agency in advance of each inspection to provide the Agency with the opportunity to have an observer present during the inspection. The remanufacturer or other person that stores or treats the hazardous

secondary material must notify the Agency of the date and location of the inspection as follows:

i) Prior to each visual inspection of an internal floating roof in a tank that has been emptied and degassed, written notification must be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the Agency at least 30 calendar days before refilling the tank, except when an inspection is not planned as provided for in subsection (e)(3)(D)(ii).

ii) When a visual inspection is not planned and the remanufacturer or other person that stores or treats the hazardous secondary material could not have known about the inspection 30 calendar days before refilling the tank, the remanufacturer or other person that stores or treats the hazardous secondary material must notify the Agency as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the Agency at least seven calendar days before refilling the tank.

E) In the event that a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material must repair the defect in ~~accordance~~compliance with ~~the requirements of~~ subsection (k).

F) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the inspection in ~~accordance~~compliance with the requirements specified in Section 721.989(b).

4) Safety devices, as defined in Section 721.981, may be installed and operated as necessary on any tank complying with ~~the requirements of~~ subsection (e).

f) The remanufacturer or other person that stores or treats the hazardous secondary material that ~~who~~ controls air pollutant emissions from a tank using an external floating roof must meet the requirements specified in subsections (f)(1) through (f)(3).

1) The remanufacturer or other person that stores or treats the hazardous secondary material must design the external floating roof ~~in accordance with the following requirements~~as follows:

A) The external floating roof must be designed to float on the liquid surface except when the floating roof must be supported by the leg supports.

B) The floating roof must be equipped with two continuous seals, one above the other, between the wall of the tank and the roof edge. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal.

i) The primary seal must be a liquid-mounted seal or a metallic shoe seal, as defined in 35 Ill. Adm. Code 721.981. The total area of the gaps between the tank wall and the primary seal must not exceed 212 square centimeters (cm^2) per meter of tank diameter, and the width of any portion of these gaps must not exceed 3.8 centimeters (cm). If a metallic shoe seal is used for the primary seal, the metallic shoe seal must be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least 61 cm above the liquid surface.

ii) The secondary seal must be mounted above the primary seal and cover the annular space between the floating roof and the wall of the tank. The total area of the gaps between the tank wall and the secondary seal must not exceed 21.2 cm^2 per meter of tank diameter, and the width of any portion of these gaps must not exceed 1.3 cm.

C) The external floating roof must meet the following specifications:

i) Except for automatic bleeder vents (vacuum breaker vents) and rim space vents, each opening in a noncontact external floating roof must provide a projection below the liquid surface.

ii) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof must be equipped with a gasketed cover, seal, or lid.

iii) Each access hatch and each gauge float well must be equipped with a cover designed to be bolted or fastened when the cover is secured in the closed position.

iv) Each automatic bleeder vent and each rim space vent must be equipped with a gasket.

v) Each roof drain that empties into the liquid managed in the tank must be equipped with a slotted membrane fabric cover that covers at least 90 percent of the area of the opening.

vi) Each unslotted and slotted guide pole well must be equipped with a gasketed sliding cover or a flexible fabric sleeve seal.

vii) Each unslotted guide pole must be equipped with a gasketed cap on the end of the pole.

viii) Each slotted guide pole must be equipped with a gasketed float or other device that ~~which~~ closes off the liquid surface from the atmosphere.

ix) Each gauge hatch and each sample well must be equipped with a gasketed cover.

2) The remanufacturer or other person that stores or treats the hazardous secondary material must operate the tank in ~~accordance~~compliance with the following requirements:

A) When the floating roof is resting on the leg supports, the process of filling, emptying, or refilling must be continuous and must be completed as soon as practical.

B) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof must be secured and maintained in a closed position at all times except when the closure device must be open for access.

C) Covers on each access hatch and each gauge float well must be bolted or fastened when secured in the closed position.

D) Automatic bleeder vents must be set closed ~~at all times~~always when the roof is floating, except when the roof is being floated off or is being landed on the leg supports.

E) Rim space vents must be set to open only at those times that the roof is being floated off the roof leg supports or when the pressure beneath the rim seal exceeds the manufacturer's recommended setting.

F) The cap on the end of each unslotted guide pole must be secured in the closed position always~~at all times~~ except when measuring the level or collecting samples of the liquid in the tank.

G) The cover on each gauge hatch or sample well must be secured in the closed position ~~at all times~~ always except when the hatch or well must be opened for access.

H) Both the primary seal and the secondary seal must completely cover the annular space between the external floating roof and the wall of the tank in a continuous fashion except during inspections.

3) The remanufacturer or other person that stores or treats the hazardous secondary material must inspect the external floating roof ~~in~~ accordinga~~nce with~~ to the following procedures:

A) The remanufacturer or other person that stores or treats the hazardous secondary material must measure the external floating roof seal gaps ~~in accordance with the following requirements~~as follows:

i) The remanufacturer or other person that stores or treats the hazardous secondary material must perform measurements of gaps between the tank wall and the primary seal within 60 calendar days after initially operating ~~initial operation of~~ the tank following installing ~~installation of~~ the floating roof and, thereafter, at least once every five years.

ii) The remanufacturer or other person that stores or treats the hazardous secondary material must perform measurements of gaps between the tank wall and the secondary seal within 60 calendar days after initially operating ~~initial operation of~~ the tank following installing ~~installation of~~ the floating roof and, thereafter, at least once every year.

iii) If a tank ceases to hold hazardous secondary material for a period of one year or more, subsequently introducing ~~subsequent introduction of~~ hazardous secondary material into the tank must be considered an initial operation for ~~the purposes of~~ subsections (f)(3)(A)(i) and (f)(3)(A)(ii).

iv) The remanufacturer or other person that stores or treats the hazardous secondary material must determine the total surface area of gaps in the primary seal and in the

secondary seal individually using the procedure described in subsection (f)(3)(D):
BOARD NOTE: The Board moved corresponding 40 CFR 261.1084(f)(3)(i)(D)(*1*) through (f)(3)(i)(D)(*4*) to appear as subsections (f)(3)(D)(i) through (f)(3)(D)(iv) to comport with codification requirements.

v) ~~In the event that~~If the seal gap measurements do not conform to the specifications in subsection (f)(1)(B), the remanufacturer or other person that stores or treats the hazardous secondary material must repair the defect in ~~accordance~~compliance with ~~the requirements of~~ subsection (k).

vi) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the inspection in ~~accordance~~compliance with the requirements specified in Section 721.989(b).

B) The remanufacturer or other person that stores or treats the hazardous secondary material must visually inspect the external floating roof ~~in accordance with the following requirements~~as follows:

i) The floating roof and its closure devices must be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include~~, but are not limited to,~~ holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; all or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

ii) The remanufacturer or other person that stores or treats the hazardous secondary material must perform an initial inspection of the external floating roof and its closure devices on or before the date that the tank becomes subject to this Section. ~~Thereafter~~After the initial inspection, the remanufacturer or other person that stores or treats the hazardous secondary material must perform the inspections at least once every year except for the special conditions provided for in subsection (l).

iii) ~~In the event that~~If a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material must repair the defect in ~~accordance~~compliance with ~~the requirements of~~ subsection (k).

iv) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the inspection in ~~accordance~~compliance with the requirements specified in Section 721.989(b).

C) ~~Prior to~~Before each inspection required by subsection (f)(3)(A) or (f)(3)(B), the remanufacturer or other person that stores or treats the hazardous secondary material must notify the Agency in advance of each inspection to provide the Agency with the opportunity to have an observer present during the inspection. The remanufacturer or other person that stores or treats the hazardous secondary material must notify the Agency of the date and location of the inspection as follows:

i) ~~Prior to~~Before each inspection to measure external floating roof seal gaps, as required under subsection (f)(3)(A), written notification must be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the Agency at least 30 calendar days before the date the measurements are scheduled to be performed.

ii) ~~Prior to~~Before each visual inspection of an external floating roof in a tank that has been emptied and degassed, written notification must be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the Agency at least 30 calendar days before refilling the tank, except when an inspection is not planned as provided for in subsection (f)(3)(C)(iii).

iii) When a visual inspection is not planned and the remanufacturer or other person that stores or treats the hazardous secondary material could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator must notify the Agency as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned.

Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the Agency at least seven calendar days before refilling the tank.

D) Procedure for determining the total surface area of gaps in the primary seal and in the secondary seal individually.

i) The seal gap measurements must be performed at one or more floating roof levels when the roof is floating off the roof supports.

ii) Seal gaps, if any, must be measured around the entire perimeter of the floating roof in each place where a 0.32-cm diameter uniform probe passes freely (without forcing or binding against the seal) between the seal and the wall of the tank and measure the circumferential distance of each ~~such~~ location.

iii) For a seal gap measured under this subsection (f)(3), the gap surface area must be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each ~~such~~ width by its respective circumferential distance.

iv) The total gap area must be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually, and then dividing the sum for each seal type by the nominal diameter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in subsection (f)(1)(B).

BOARD NOTE: The texts of corresponding 40 CFR 261.1084(f)(3)(i)(D)(*1*) through (f)(3)(i)(D)(*4*), which would normally appear in subsection (f)(3)(A)(iv), but codification requirements do not allow a fifth level of subsections. Thus, the Board has codified them to appear as subsections (f)(3)(D)(i) through (f)(3)(D)(iv) to comport with codification requirements.

4) Safety devices, as defined in Section 721.981, may be installed and operated as necessary on any tank complying with ~~the requirements of~~ this subsection (f).

g) The remanufacturer or other person that stores or treats the hazardous secondary material that ~~who~~ controls air pollutant emissions from a tank by venting the tank to a control device must meet the following requirements: ~~specified in subsections (g)(1) through (g)(3).~~

1) The tank must be covered by a fixed roof and vented directly through a closed-vent system to a control device in ~~accordance~~ compliance with the following requirements:

A) The fixed roof and its closure devices must be designed to form a continuous barrier over the entire surface area of the liquid in the tank.

B) Each opening in the fixed roof not vented to the control device must be equipped with a closure device. If the pressure in the vapor headspace underneath the fixed roof is less than atmospheric pressure when the control device is operating, the closure devices must be designed to operate so ~~such~~ that when the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device must be designed to operate with no detectable organic emissions.

C) The fixed roof and its closure devices must be made of suitable materials that will minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices must include, organic vapor permeability, the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank on which the fixed roof is installed.

D) The closed-vent system and control device must be designed and operated in ~~accordance~~compliance with the requirements of Section 721.987.

2) Whenever a hazardous secondary material is in the tank, the fixed roof must be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device, except as follows:

A) Venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed at the following times:

i) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of activities needed for normal operations include those times when a worker needs to open a port to sample liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. After completing ~~Following completion of~~ the activity, the remanufacturer or other person that stores or treats the hazardous secondary material must promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

ii) To remove accumulated sludge or other residues from the bottom of a tank.

B) Opening of a safety device, as defined in Section 721.981, is allowed at any time conditions require doing so to avoid an unsafe condition.

3) The remanufacturer or other person that stores or treats the hazardous secondary material must inspect and monitor the air emission control equipment ~~in accordance with~~according to the following procedures:

A) The fixed roof and its closure devices must be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include~~, but are not limited to,~~ visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

B) The closed-vent system and control device must be inspected and monitored by the remanufacturer or other person that stores or treats the hazardous secondary material ~~in accordance with~~according to the procedures specified in Section 721.987.

C) The remanufacturer or other person that stores or treats the hazardous secondary material must perform an initial inspection of the air emission control equipment on or before the date that the tank becomes subject to this section. Thereafter, the

remanufacturer or other person that stores or treats the hazardous secondary material must perform the inspections at least once every year except for the special conditions provided for in subsection (l).

D) In the event that a defect is detected, the remanufacture or other person that stores or treats the hazardous secondary material must repair the defect in ~~accordance~~compliance with ~~the requirements of~~ subsection (k).

E) The remanufacturer or other person that stores or treats the hazardous secondary material must maintain a record of the inspection in ~~accordance~~compliance with the requirements specified in Section 721.989(b).

h) The remanufacturer or other person that stores or treats the hazardous secondary material that ~~who~~ controls air pollutant emissions by using a pressure tank must meet the following requirements:

1) The tank must be designed not to vent to the atmosphere because ~~as a result~~ compression of the vapor headspace in the tank during filling of the tank to its design capacity.

2) All tank openings must be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in Section 721.983(d).

3) Whenever a hazardous secondary material is in the tank, the tank must be operated as a closed system that does not vent to the atmosphere, except under either or the following conditions described in subsection (h)(3)(A) or (h)(3)(B).

A) At those times when opening of a safety device, as defined in Section 721.981, is required to avoid an unsafe condition.

B) At those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in ~~accordance~~compliance with ~~the requirements~~ of Section 721.987.

i) The remanufacturer or other person that stores or treats the hazardous secondary material that ~~who~~ controls air pollutant emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device must meet the following requirements:

1) The tank must be located inside an enclosure. The enclosure must be designed and operated in ~~accordance~~ according to~~with~~ the criteria for a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" in appendix B to 40 CFR 52.741, incorporated by reference in 35 Ill. Adm. Code 720.111. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The remanufacturer or other person that stores or treats the hazardous secondary material must perform the verification procedure for the enclosure as specified in Section 5.0 of "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" initially when the enclosure is first installed and annually thereafter.

2) The enclosure must be vented through a closed-vent system to an enclosed combustion control device that is designed and operated in ~~accordance~~ compliance with the standards for either a vapor incinerator, boiler, or process heater specified in Section 721.987.

3) Safety devices, as defined in Section 721.981, may be installed and operated as necessary on any enclosure, closed-vent system, or control device used to comply with ~~the requirements of~~ subsections (i)(1) and (i)(2).

4) The remanufacturer or other person that stores or treats the hazardous secondary material must inspect and monitor the closed-vent system and control device, as specified in Section 721.987.

j) The remanufacturer or other person that stores or treats the hazardous secondary material must transfer hazardous secondary material to a tank subject to this section ~~in accordance with the following requirements~~as follows:

1) Transfer of hazardous secondary material, except as provided in subsection (j)(2), to the tank from another tank subject to this section must be conducted using continuous hard-piping or another closed system that does not allow exposure of the hazardous secondary material to the atmosphere. For ~~the purpose of~~ complying with this provision, an individual drain system is considered to be a closed system when it complies with ~~meets the requirements of~~ subpart RR of 40 CFR 63 (National Emission Standards for Individual Drain Systems), incorporated by reference in 35 Ill. Adm. Code 720.111.

2) Subsection ~~The requirements of subsection~~ (j)(1) does ~~do~~ not apply when transferring a hazardous secondary material to the tank under any of the following conditions:

A) The hazardous secondary material meets the average VO concentration conditions specified in Section 721.982(c)~~(1)~~ at the point of material origination.

B) The hazardous secondary material has been treated by an organic destruction or removal process to meet the requirements in Section 721.982(c)~~(2)~~.

C) The hazardous secondary material complies with ~~meets the requirements of~~ Section 721.982(c)~~(4)~~.

k) The remanufacturer or other person that stores or treats the hazardous secondary material must repair each defect detected during an inspection performed in ~~accordance with the requirements of~~ under subsection (c)(4), (e)(3), (f)(3), or (g)(3), as follows:

1) The remanufacturer or other person that stores or treats the hazardous secondary material must make first efforts at repair of the defect no later than five calendar days after detection, and repair must be completed as soon as possible, but ~~no later than~~within 45 calendar days after detection, except as provided in subsection (k)(2).

2) Repair of a defect may be delayed beyond 45 calendar days if the remanufacturer or other person that stores or treats the hazardous secondary material determines that repair of the defect requires emptying or temporary removal from service of the tank and no alternative tank capacity is available at the site to accept the hazardous secondary material normally managed in the tank. In this case, the remanufacturer or other person that stores or treats the hazardous secondary material must repair the defect the next time the process or unit that is generating the hazardous secondary material managed in the tank stops operation. Repair of the defect must be completed before the process or unit resumes operation.

l) Following the initial inspection and monitoring of the cover as required by the applicable provisions of this Subpart CC, subsequent inspection and monitoring may be performed at intervals longer than one year under the following special conditions:

1) If inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions, then the remanufacturer or other person that stores or treats the hazardous secondary material may designate a cover as an "unsafe to inspect and monitor cover" and comply with ~~all of~~ the following requirements:

A) Prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required.

B) Develop and implement a written plan and schedule to inspect and monitor the cover, using the procedures specified in the applicable Section ~~section~~ of this Subpart CC, as frequently as practicable during those times when a worker can safely access the cover.

2) If a tank is buried partially or entirely underground, a remanufacturer or other person that stores or treats the hazardous secondary material must ~~is required to~~ inspect and monitor, as required by the applicable provisions of this Section, only those portions of the tank cover and those connections to the tank (e.g., fill ports, access hatches, gauge wells, etc.) that are located on or above the ground surface.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 721.989 Recordkeeping Requirements

a) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to requirements of this Subpart CC must record and maintain the information specified in subsections (b) through (j), as applicable to the facility. Except for air emission control equipment design documentation and information required by subsections (i) and (j), records required by this section must be maintained at the facility for a minimum of three years. Air emission control equipment design documentation must be maintained at the facility until the air emission control equipment is replaced or otherwise no longer in service. Information required by subsections (i) and (j) must be maintained at the facility for as long as the hazardous secondary material management unit is not using air emission controls specified in Sections 721.984 through 721.987 in ~~accordance~~ compliance with the conditions specified in Section 721.980~~(b)(7) or (d), respectively~~.

b) The remanufacturer or other person that stores or treats the hazardous secondary material using a tank with air emission controls in ~~accordance~~ compliance with ~~the requirements of~~ Section 721.984 must prepare and maintain records for the tank that include the following information:

1) For each tank using air emission controls in ~~accordance~~ compliance with ~~the requirements of~~ Section 721.984, the remanufacturer or other person that stores or treats the hazardous secondary material must record:

A) A tank identification number (or other unique identification description as selected by the remanufacturer or other person that stores or treats the hazardous secondary material).

B) A record for each inspection required by Section 721.984 that includes the following information:

i) The date inspection was conducted.

ii) For each defect detected during the inspection, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. ~~In the event that~~If the repair of the defect is delayed in ~~accordance with~~under ~~the requirements of~~ Section 721.984, the remanufacturer or other person that stores or treats the hazardous secondary material must also record the reason for the delay and the date that completion of repair of the defect is expected.

2) In addition to the information required by subsection (b)(1), the remanufacturer or other person that stores or treats the hazardous secondary material must record the following information, as applicable to the tank:

A) The remanufacturer or other person that stores or treats the hazardous secondary material using a fixed roof to comply with the Tank Level 1 control requirements specified in Section 721.984(c) must prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous secondary material in the tank performed in ~~accordance~~compliance with ~~the requirements of~~ Section 721.984(c). The records must include the date and time the samples were collected, the analysis method used, and the analysis results.

B) The remanufacturer or other person that stores or treats the hazardous secondary material using an internal floating roof to comply with the Tank Level 2 control requirements specified in Section 721.1084(e) of this Subpart CC must prepare and maintain documentation describing the floating roof design.

C) Remanufacturer or other persons that store or treat the hazardous secondary material using an external floating roof to comply with the Tank Level 2 control requirements specified in Section 721.984(f) must prepare and maintain the following records:

i) Documentation describing the floating roof design and the dimensions of the tank.

ii) Records for each seal gap inspection required by Section 721.984(f)(3) describing the results of the seal gap

measurements. The records must include the date that the measurements were performed, the raw data obtained for the measurements, and the calculations of the total gap surface area. ~~In the event that~~If the seal gap measurements do not conform to the specifications in Section 721.984(f)(1), the records must include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary.

D) Each remanufacturer or other person that stores or treats the hazardous secondary material using an enclosure to comply with the Tank Level 2 control requirements specified in Section 721.984(i) must prepare and maintain the following records:

i) Records for the most recent set of calculations and measurements performed by the remanufacturer or other person that stores or treats the hazardous secondary material to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" in appendix B (VOM Measurement Techniques for Capture Efficiency) to 40 CFR 52.741, incorporated by reference in 35 Ill. Adm. Code 720.111.

ii) Records required for the closed-vent system and control device in ~~accordance~~compliance with ~~the requirements of~~ subsection (e).

c) This subsection (c) corresponds with 40 CFR 261.1089(c), marked "reserved" by USEPA. This statement maintains structural consistency with the federal regulations

d) The remanufacturer or other person that stores or treats the hazardous secondary material using containers with Container Level 3 air emission controls in ~~accordance~~compliance with ~~the requirements of~~ Section 721.986 must prepare and maintain records that include the following information:

1) Records for the most recent set of calculations and measurements performed by the remanufacturer or other person that stores or treats the hazardous secondary material to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" in appendix B (VOM Measurement Techniques for Capture Efficiency) to 40 CFR 52.741, incorporated by reference in 35 Ill. Adm. Code 720.111.

2) Records required for the closed-vent system and control device in ~~accordance~~compliance with ~~the requirements of~~ subsection (e).

e) The remanufacturer or other person that stores or treats the hazardous secondary material using a closed-vent system and control device in ~~accordance~~compliance with ~~the requirements of~~ Section 721.987 must prepare and maintain records that include the following information:

1) Documentation for the closed-vent system and control device that includes:

A) Certification that is signed and dated by the remanufacturer or other person that stores or treats the hazardous secondary material stating that the control device is designed to operate at the performance level documented by a design analysis, as specified in subsection (e)(1)(B), or by performance tests as specified in subsection (e)(1)(C) when the tank or container is or would be operating at capacity or the highest level reasonably expected to occur.

B) If a design analysis is used, then design documentation as specified in Section 721.935(b)(4). The documentation must include information prepared by the remanufacturer or other person that stores or treats the hazardous secondary material or provided by the control device manufacturer or vendor that describes the control device design in ~~accordance~~compliance with Section 721.935(b)(4)(C) and certification by the remanufacturer or other person that stores or treats the hazardous secondary material that the control equipment meets the applicable specifications.

C) If performance tests are used, then a performance test plan, as specified in Section 721.935(b)(3), and all test results.

D) Information as required by Section 721.935(c)(1) and (c)(2), as applicable.

E) A remanufacturer or other person that stores or treats the hazardous secondary material must record, on a semiannual basis, the information specified in subsections (e)(1)(E)(i) and (e)(1)(E)(ii) for those planned routine maintenance operations that would require the control device not to comply with ~~meet the requirements of~~ Section 721.987(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable.

i) A description of the planned routine maintenance that is anticipated to be performed for the control device during

the next six-month period. This description must include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods.

ii) A description of the planned routine maintenance that was performed for the control device during the previous six-month period. This description must include the type of maintenance performed and the total number of hours during those six months that the control device did not comply with ~~meet the requirements of~~ Section 721.987(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable, due to planned routine maintenance.

F) A remanufacturer or other person that stores or treats the hazardous secondary material must record the information specified in subsections (e)(1)(F)(i) through (e)(1)(F)(iii) for those unexpected control device system malfunctions that would require the control device not to comply with ~~meet the requirements of~~ Section 721.987(c)(1)(A), (c)(1)(B), or (c)(1)(C), as applicable.

i) The occurrence and duration of each malfunction of the control device system.

ii) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the hazardous secondary material management unit through the closed-vent system to the control device while the control device is not properly functioning.

iii) Actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation.

G) Records of the management of carbon removed from a carbon adsorption system conducted in ~~accordance~~compliance with Section 721.987(c)(3)(B).

f) The remanufacturer or other person that stores or treats the hazardous secondary material using a tank or container exempted under the hazardous secondary material organic concentration conditions specified in Section 721.982(c)~~(1) or (c)(2)(A) through (c)(2)(F)~~, must prepare and maintain at the facility records documenting the information used for each material determination (e.g., test results, measurements, calculations, and other documentation). If analysis results for material samples are used for the material determination, then the remanufacturer or other person that stores or treats the hazardous secondary material must record the date, time, and location that each material sample is

collected in ~~accordance~~compliance with applicable requirements of Section 721.983.

BOARD NOTE: Corresponding 40 CFR 261.1089(f) includes a subsection (f)(2) that USEPA marked "reserved". Because there is no 40 CFR 1089(f)(1), the Board included no text to correspond with subsection (f)(2).

g) A remanufacturer or other person that stores or treats the hazardous secondary material designating a cover as "unsafe to inspect and monitor" under ~~pursuant to~~ Section 721.984(l) ~~or Section 721.985(g)~~ must record and keep at facility the following information: the identification numbers for hazardous secondary material management units with covers that are designated as "unsafe to inspect and monitor", the explanation for each cover stating why the cover is unsafe to inspect and monitor, and the plan and schedule for inspecting and monitoring each cover.

h) The remanufacturer or other person that stores or treats the hazardous secondary material that is subject to this Subpart CC and to the control device standards in subpart VV (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, on or Before November 7, 2006) of 40 CFR 60 or subpart V of 40 CFR 61 (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), each incorporated by reference in 35 Ill. Adm. Code 720.111, may elect to demonstrate complying ~~in compliance~~ with the applicable sections of this Subpart CC by documentation either under ~~pursuant to~~ this Subpart CC, or under ~~pursuant to~~ the provisions of subpart VV of 40 CFR 60 or subpart V of 40 CFR 61, to the extent that the documentation required by 40 CFR 60 or 61 duplicates the documentation required by this Section.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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

PART 722
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section
722.101 Definitions
722.105 Electronic Reporting
722.110 Purpose, Scope, and Applicability

SUBPART B: MANIFEST REQUIREMENTS APPLICABLE TO SMALL AND LARGE QUANTITY GENERATORS

SUBPART C: PRE-TRANSPORT REQUIREMENTS APPLICABLE TO SMALL AND LARGE QUANTITY GENERATORS

SUBPART D: RECORDKEEPING AND REPORTING REQUIREMENTS APPLICABLE TO SMALL AND LARGE QUANTITY GENERATORS

SUBPART G: FARMERS

SUBPART H: TRANSBOUNDARY SHIPMENTS OF HAZARDOUS WASTE FOR RECOVERY OR DISPOSAL

SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE DETERMINATION AND ACCUMULATION OF UNWANTED MATERIAL FOR LABORATORIES OWNED BY ELIGIBLE ACADEMIC ENTITIES

SUBPART L: ALTERNATIVE STANDARDS FOR EPISODIC GENERATION

SUBPART M: PREPAREDNESS, PREVENTION, AND EMERGENCY PROCEDURES FOR LARGE QUANTITY GENERATORS

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12

Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. 17763, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1700, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11717, effective August 9, 2016; recodified at 42 Ill. Reg. 11553; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22047, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 563, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 5955, May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15263, effective September 3, 2020; amended in R21-13, R22-13, R24-4 at 48 Ill. Reg. _____, effective _____; amended in R24-12 at 48 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 722.101 Definitions

As used in this Part, the following terms have the following meanings:

"Condition for exemption" means any requirement in Sections 722.114 through 722.117, 722.170, or Subpart K or Subpart L that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in 35 Ill. Adm. Code 702, 703, and 724 through 728, or from any requirement for notification under section 3010 of RCRA (42 USC 6930) for treatment storage, and disposal facilities.

"Independent requirement" means a requirement of this Part that states an event, action, or standard that must occur or be met; and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption from storage facility permit, interim status, and operating requirements under Sections 722.114 through 722.117, 722.170, or Subpart K or Subpart L.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.110 Purpose, Scope, and Applicability

a) This Part establishes standards for generators of hazardous waste, as defined by 35 Ill. Adm. Code 720.110.

1) A person who generates a hazardous waste, as defined by 35 Ill. Adm. Code 721, is subject to all the applicable independent requirements in the following provisions:

A) Independent Requirements of a VSQG

i) Section 722.111(a) through (d) (hazardous waste determination and recordkeeping); and

ii) Section 722.113 (generator category determination).

B) Independent Requirements of a SQG

i) Section 722.111 (hazardous waste determination and recordkeeping);

ii) Section 722.113 (generator category determination);

iii) Section 722.118 (USEPA identification numbers and re-notification for SQGs and LQGs);

iv) Subpart B (manifest requirements applicable to SQGs and LQGs);

v) Subpart C (pre-transport requirements applicable to SQGs and LQGs);

vi) Section 722.140 (recordkeeping);

vii) Section 722.144 (recordkeeping for SQGs); and

viii) Subpart H (transboundary movements of hazardous waste for recovery or disposal).

C) Independent Requirements of a LQG

i) Section 722.111 (hazardous waste determination and recordkeeping);

ii) Section 722.113 (generator category determination);

iii) Section 722.118 (USEPA identification numbers and re-notification for SQGs and LQGs);

iv) Subpart B (manifest requirements applicable to SQGs and LQGs);

v) Subpart C (pre-transport requirements applicable to SQGs and LQGs;

vi) Subpart D (recordkeeping and reporting applicable to SQGs and LQGs, except Section 722.144); and

vii) Subpart H (transboundary movements of hazardous waste for recovery or disposal).

2) A generator that accumulates hazardous waste on site is a person that stores hazardous waste; this generator is subject to the applicable requirements of 35 Ill. Adm. Code 702, 703, and 724 through 727 and section 3010 of RCRA (42 USC 6930), for treatment, storage, and disposal facilities unless the generator is one of the following:

A) A VSQG that meets the conditions for exemption in Section 722.114;

B) A SQG that meets the conditions for exemption in Sections 722.115 and 722.116; or

C) A LQG that meets the conditions for exemption in Sections 722.115 and 722.117.

3) A generator must not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in 35 Ill. Adm. Code 720.110, or which is not otherwise authorized to receive the generator's hazardous waste.

b) Determining Generator Category. A generator must use Section 722.113 to determine which provisions of this Part are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

c) This subsection (c) corresponds with 40 CFR 262.10(c), which USEPA removed and marked "reserved". This statement maintains structural consistency with the federal provision.

d) Any person that exports or imports hazardous waste must comply with Section 722.118 and Subpart H.

e) Any person that imports hazardous waste into the United States must comply with the generator standards of this Part.

f) A farmer that generates waste pesticides that are hazardous waste and that complies with Section 722.170 is not required to comply with other standards in this Part or 35 Ill. Adm. Code 702, 703, 724, 725, 727, or 728 with respect to such pesticides.

g) Generator Violation and Noncompliance

1) A generator's violation of an independent requirement is subject to enforcement action under Title VIII of the Act, including Board orders, and the penalties provided by Title XII of the Act.

2) A generator's noncompliance with a condition for exemption in this Part is not subject to enforcement action under Title VIII of the Act, including Board orders, and the penalties provided by Title XII of the Act as a violation of a condition for exemption provided in this Part. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in 35 Ill. Adm. Code 702, 703, and 724 through 727, and the notification requirements of section 3010 of RCRA (42 USC 6930). Without an exemption, any violations of such storage requirements are subject to enforcement action under Title VIII of the Act, including Board orders, and the penalties provided by Title XII of the Act.

h) An owner or operator that initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this Part.

i) A person responding to an explosives or munitions emergency in ~~accordance~~ under~~with~~ 35 Ill. Adm. Code 724.101(g)(8)(A)(iv) or (g)(8)(D) or 35 Ill. Adm. Code 725.101(c)(11)(A)(iv) or (c)(11)(D) and 35 Ill. Adm. Code 703.121(a)(4) or (c) is not required to comply with the standards of this Part.

j) This subsection (j) corresponds with 40 CFR 262.10(j), which USEPA removed and marked "reserved". This statement maintains structural consistency with USEPA rules.

k) This subsection (k) corresponds with 40 CFR 262.10(k), a provision that relates only to facilities in the Commonwealth of Massachusetts. This statement maintains structural consistency with USEPA rules.

l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Subpart K are not subject to the requirements ~~set forth~~ in subsections (l)(1) and (l)(2), except as specifically otherwise provided in Subpart K. For ~~purposes of~~ this subsection (l), the terms "laboratory" and "eligible academic entity" must have the meanings given them in Section 722.300.

1) The independent requirements of Section 722.111 or the regulations in Section 722.115 for an LQG or an SQG, except as provided in Subpart K; and

2) The conditions of Section 722.114 for a VSQG, except as provided in Subpart K.

m) A reverse distributor (as defined in 35 Ill. Adm. Code 726.600) is subject to Subpart P of 35 Ill. Adm. Code 726 for the management of hazardous waste pharmaceuticals ~~in lieu~~instead of this Part.

n) A healthcare facility (as defined in 35 Ill. Adm. Code 726.600) must determine whether it is subject to Subpart P of 35 Ill. Adm. Code 726 for the management of hazardous waste pharmaceuticals, based on the total hazardous waste it generates per calendar month (including both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste). A healthcare facility that generates more than a threshold quantity of hazardous waste is subject to Subpart P of 35 Ill. Adm. Code 726 for the management of hazardous waste pharmaceuticals ~~in lieu~~instead of this Part. A threshold quantity of hazardous waste is 100 kg (220 pounds) of hazardous waste in a calendar month; more than 1 kg (2.2 pounds) of acute hazardous waste in a calendar month; or more than 100 kg (220 pounds) in a calendar month of any residue or contaminated soil, water, or other debris resulting from the clean-up of a spill of any acute hazardous wastes listed in 35 Ill. Adm. Code 721.131 or 721.133(e) into or on any land or water. 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 Section 722.114 and is not subject to Subpart P of 35 Ill. Adm. Code 726, except that the healthcare facility remains subject to 35 Ill. Adm. Code 726.605 and 726.607 and the optional provisions of 35 Ill. Adm. Code 726.604.

BOARD NOTE: A generator that treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements ~~set forth~~ in 35 Ill. Adm. Code 702, 703, 724 through 728, 733, and 739.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.111 Hazardous Waste Determination

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 721.102, must make an accurate determination as to whether that waste is a hazardous waste ~~in order~~ to ensure that the waste is properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following steps:

a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change.

b) The person must determine whether the solid waste is excluded from regulation under 35 Ill. Adm. Code 721.104.

c) If the waste is not excluded under 35 Ill. Adm. Code 721.104, the person must then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under Subpart D of 35 Ill. Adm. Code 721. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If a waste is listed, the person may file a delisting petition under 35 Ill. Adm. Code 720.120 and 720.122 to demonstrate to the Administrator that the waste from this particular site or operation is not a hazardous waste.

d) The person then must also determine whether the waste exhibits one or more hazardous characteristics, as identified in Subpart C of 35 Ill. Adm. Code 721, by following the procedures in subsection (d)(1) or (d)(2), or a combination of both.

1) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method ~~set forth~~ in Subpart C of 35 Ill. Adm. Code 721, or an equivalent test method approved by the Agency or the Board under 35 Ill. Adm. Code 720.121, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, the ~~such~~ tests do not, by themselves, provide definitive

results. Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at 35 Ill. Adm. Code 720.110.

2) When available knowledge is inadequate to make an accurate determination, the person must test the waste according to the applicable methods ~~set forth~~ in Subpart C of 35 Ill. Adm. Code 721 or according to an equivalent method approved by the Administrator under 35 Ill. Adm. Code 720.121 and complying ~~in accordance~~ with the following:

A) A persons testing its waste must obtain a representative sample of the waste for the testing, as defined at 35 Ill. Adm. Code 720.110.

B) Where a test method is specified in Subpart C of 35 Ill. Adm. Code 721, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

e) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 721, 724 through 728, and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

f) Recordkeeping for SQGs and LQGs. A SQG or LQG must maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by 35 Ill. Adm. Code 721.103. Records must be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described at subsections (c) and (d). The records must include~~, but are not limited to,~~ the following types of information: the results of any tests, sampling, waste analyses, or other determinations made in compliance ~~accordance~~ with this Section; records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of the ~~such~~ tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at subsection (d)(1). The periods of record 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.

BOARD NOTE: Any Agency request for extended records retention under this subsection (f) is subject to Board review under ~~pursuant to~~ Section 40 of the Act.

g) Identifying USEPA Hazardous Waste Numbers for SQGs and LQGs. Consistent with subsection (d), if ~~If~~ the waste is determined to be hazardous, SQGs and LQGs must identify all applicable USEPA hazardous waste numbers in Subparts C and D of 35 Ill. Adm. Code 721. Prior to shipping the waste off site, the

generator also must mark its containers with all applicable USEPA hazardous waste numbers (USEPA hazardous waste numbers) according to 35 Ill. Adm. Code 722.132.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.114 Conditions for Exemption for a Very Small Quantity Generator

a) ~~Provided that~~If a VSQG meets all the conditions for exemption listed in this Section, hazardous waste generated by the VSQG is not subject to the requirements of 35 Ill. Adm. Code 702, 703, 705, and 722 through 728 and the notification requirements of section 3010 of RCRA (42 USC 6930), and the VSQG may accumulate hazardous waste on site without complying with these requirements, except that the VSQG must comply with this Section and Sections 722.110 through 722.113. The conditions for exemption are as follows:

1) In a calendar month, the VSQG generates less than or equal to the amounts specified in the definition of "VSQG" in 35 Ill. Adm. Code 720.110;

2) The VSQG complies with Section 722.111(a) through (d);

3) If the VSQG accumulates at any time greater than one kg (2.2 lbs) of acute hazardous waste or 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), all quantities of that acute hazardous waste are subject to the following additional conditions for exemption and independent requirements:

A) The waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts provided in subsection (a)(~~1~~3); ~~and~~

B) The conditions for exemption in Section 722.117(a) through (g);~~.~~

C) Notification as a ''very small quantity generator'' in Section 722.118 (a) through (c);

D) Preparation and use of the manifest in Subpart B;

E) Pre-transport requirements in Subpart C;

F) Recordkeeping and reporting requirements in Subpart D; and

G) Requirements for transboundary movements of hazardous wastes in Subpart H.

4) If the VSQG accumulates at any time 1,000 kg (2,200 lbs) or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to the following additional conditions for exemption:

A) The waste is held on site for no more than 180 days, or 270 days, if applicable, beginning on the date when the accumulated waste exceed the amounts provided in subsection (a)(1);
BOARD NOTE: Section 722.116(c) allows an SQG that must transport its waste or offer its waste for transportation over a distance of 200 miles for off-site treatment, storage, or disposal to accumulate the waste for up to 270 days.

B) The quantity of waste accumulated on site never exceeds 6,000 kg (13,200 lbs); ~~and~~

C) The VSQG ~~fulfill~~meets the conditions for exemption in Section 722.116(b)(2) through (f);~~.~~

D) Notification as a ‘‘very small quantity generator’’ under Section 722.118(a) through (c);

E) Preparation and use of the manifest in Subpart B;

F) Pre-transport requirements in Subpart C;

G) Recordkeeping and reporting requirements in Subpart D; and

H) Requirements for transboundary movements of hazardous wastes in Subpart H.

5) A VSQG that accumulates hazardous waste in amounts less than or equal to the limits in subsections (a)(3) and (a)(4) must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility. The facility, if located in the U.S., must be one of the following:

A) A permitted facility under 35 Ill. Adm. Code 702 and 703;

B) An interim status facility under Subpart C of 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 725;

C) A facility authorized to manage hazardous waste by a state whose hazardous waste management program is approved by USEPA under 40 CFR 271;

D) A municipal solid waste landfill that is subject to the standards of 40 CFR 258 and ~~that~~ is permitted, licensed, or registered by a USEPA-authorized state to manage municipal solid waste;

E) A solid waste management facility that is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if the facility is a non-municipal non-hazardous waste disposal unit, the facility must comply with the requirements in subpart B of 40 CFR 257, incorporated by reference in 35 Ill. Adm. Code 720.111;

F) A facility engaging in either of the following activities:

i) Beneficial use or reuse, or legitimate recycling or reclamation of its waste; or

ii) Treating its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;

G) For universal waste managed under 35 Ill. Adm. Code 733, a universal waste handler or destination facility subject to the requirements of 35 Ill. Adm. Code 733;

H) An LQG under the control of the same person as the VSQG, ~~provided~~ if the following conditions are met:

i) The VSQG and the LQG are under the control of the same person, as defined in 35 Ill. Adm. Code 720.110. "Control", for ~~the purposes of~~ this Section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that a contractor that operates a generator facility on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, cannot be deemed to "control" the VSQG and LQG.

ii) The VSQG marks its containers of hazardous waste with the words "Hazardous Waste" and an indication of the hazards of the contents. Examples of indication of the hazards include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labelling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200, incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent

with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111;

I) A reverse distributor (as defined in 35 Ill. Adm. Code 726.600), if the hazardous waste pharmaceutical is a potentially creditable hazardous waste pharmaceutical generated by a healthcare facility (as defined in 35 Ill. Adm. Code 726.600);

J) A healthcare facility (as defined in 35 Ill. Adm. Code 726.600) that meets the conditions in 35 Ill. Adm. Code 726.602(l) and 726.603(b), as applicable, to accept non-creditable hazardous waste pharmaceuticals and potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a VSQG; or

K) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of 35 Ill. Adm. Code 721.104(j).

b) The placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether ~~or not~~ sorbents have been added) in any landfill is prohibited.

c) A VSQG experiencing an episodic event may generate and accumulate hazardous waste in compliance ~~accordance~~ with Subpart L instead ~~in lieu~~ of Sections 722.115, 722.116, and 722.117.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.116 Conditions for Exemption for a Small Quantity Generator That Accumulates Hazardous Waste

An SQG may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of 35 Ill. Adm. Code 702, 703, 705, and 724 through 727, or the notification requirements of section 3010 of RCRA (42 USC 6930) for treatment, storage, and disposal facilities, ~~provided that~~if all of the ~~following~~ conditions for exemption listed in this Section are met:

a) Generation. The generator must generate in a calendar month no more than the amounts specified in the definition of "SQG" in 35 Ill. Adm. Code 720.110.

b) Accumulation. The generator ~~must~~ accumulates ~~accumulate~~ hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for~~allowing~~ longer accumulation in subsections (c), (d), and (e). The following accumulation conditions also apply:

1) Accumulation Limit. The quantity of hazardous waste accumulated on site must never exceed 6,000 kg (13,200 lbs);

2) Accumulation of Hazardous Waste in Containers

A) Condition of Containers. If a container holding hazardous waste is not in good condition or the container begins to leak, the SQG must immediately transfer the hazardous waste from this container to a container that is in good condition or immediately manage the waste in some other way that complies with the conditions for exemption of this Section.

B) Compatibility of Waste with Container. The SQG must use a container made of or lined with materials that will not react with and that are otherwise compatible with the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

C) Management of Containers

i) A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

ii) A container holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

D) Inspections. At least weekly, the SQG must inspect central accumulation areas. The SQG must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See subsection (b)(2)(A) for remedial action required if deterioration or leaks are detected.

E) Special Conditions for Accumulation of Incompatible Wastes

i) The SQG must not place incompatible wastes or incompatible wastes and materials (for examples, see appendix V to 40 CFR 265, incorporated by reference in 35 Ill. Adm. Code 720.111) must not be placed in the same container, unless the generator complies with 35 Ill. Adm. Code 725.117(b).

ii) The SQG must not place hazardous waste in an unwashed container that previously held an incompatible waste or material (for examples, see appendix V to 40 CFR 265,

incorporated by reference in 35 Ill. Adm. Code 720.111), unless the generator complies with 35 Ill. Adm. Code 725.117(b).

iii) The SQG must separate or protect a container accumulating hazardous waste, by means of a dike, berm, wall, or other device, from any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments.

3) Accumulation of Hazardous Waste in Tanks

A) This subsection (b)(3)(A) corresponds with 40 CFR 262.~~1~~16(b)(3)(i), which USEPA has marked "reserved". This statement maintains structural consistency with the corresponding federal regulation.

B) An SQG of hazardous waste must comply with the following general operating conditions:

i) Treatment or accumulation of hazardous waste in tanks must comply with 35 Ill. Adm. Code 725.117(b).

ii) The SQG must not place hazardous wastes or treatment reagents in a tank if the hazardous wastes or treatment reagents could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

iii) The SQG must operate uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

iv) If hazardous waste is continuously fed into a tank, the SQG must equip the tank with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

C) Except as noted in subsection (b)(3)(D~~iv~~), an SQG that accumulates hazardous waste in tanks must inspect each of the following, if present:

i) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

ii) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day, to ensure that the tank is being operated according to its design;

iii) The level of waste in the tank at least once each operating day, to ensure compliance with subsection (b)(3)(ii)(C);

iv) The construction materials of the tank at least weekly, to detect corrosion or leaking of fixtures or seams; and

v) The construction materials of discharge confinement structures and the immediately surrounding area (e.g., dikes) at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). The SQG must remedy any deterioration or malfunction of equipment or structures that the inspection reveals on a schedule that ensures that the problem does not lead to an environmental or human health hazard. If a hazard is imminent or has already occurred, the SQG must immediately take remedial action.

D) A SQG accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, if applicable, the areas identified in subsections (b)(3)(C)(i) through (b)(3)(C)(v). Use of the alternate inspection schedule must be documented in the generator's operating record. This documentation must include a description of the established workplace practices at the SQG.

E) This subsection (b)(3)(E) corresponds with 40 CFR 262.116(b)(3)(v), which USEPA has marked "reserved". This statement maintains structural consistency with the corresponding federal regulation.

F) An SQG accumulating hazardous waste in tanks must remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures upon closure of the facility. At closure, as throughout the operating period, unless the SQG can

demonstrate, in ~~accordance~~ compliance with 35 Ill. Adm. Code 721.103(c) or (d), that any solid waste removed from its tank is not a hazardous waste, then it must manage the ~~such~~ waste in ~~accordance~~ compliance with all applicable provisions of this Part and 35 Ill. Adm. Code 722, 723, 725 and 728.

G) An SQG must comply with the following special conditions for accumulation of ignitable or reactive waste:

i) Ignitable or reactive waste must not be placed in a tank, unless the waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under 35 Ill. Adm. Code 721.121 or 721.123, and the SQG complies with 35 Ill. Adm. Code 725.117(b); the generator accumulates or treats the waste is in such a way that the waste is protected from any material or conditions that may cause it to ignite or react; or the SQG uses the tank solely for emergencies.

ii) An SQG that treats or accumulates ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in NFPA 30 (1977 or 1981), incorporated by reference in 35 Ill. Adm. Code 720.111.

iii) An SQG must not place incompatible wastes, or incompatible wastes and materials (for examples, see appendix V to 40 CFR 265, incorporated by reference in 35 Ill. Adm. Code 720.111) in the same tank or place hazardous waste in an unwashed tank that previously held an incompatible waste or material, unless the generator complies with 35 Ill. Adm. Code 725.117(b).

4) Accumulation of Hazardous Waste on Drip Pads. If the waste is placed on drip pads, the SQG must comply with the following:

A) Subpart W of 35 Ill. Adm. Code 725 (except 35 Ill. Adm. Code 725.545(c));

B) The SQG must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that the generator removes from the drip pad are then subject to the 180-day accumulation limit in subsection (b) and Section 722.115 if hazardous wastes are

being managed in satellite accumulation areas prior to being moved to the central accumulation area; and

C) The SQG must maintain on site at the facility the following records readily available for inspection:

i) A written description of procedures that are followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

ii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

5) Accumulation of Hazardous Waste in Containment Buildings. If the SQG places waste in containment buildings, the SQG must comply with Subpart DD of 35 Ill. Adm. Code 725. The SQG must label its containment buildings with the words "Hazardous Waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site. The SQG must also provide in a conspicuous place an indication of the hazards of the contents. Examples include~~, but are not limited to,~~ the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labeling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111. The SQG must also maintain ~~both of~~ the following:

A) The professional engineer certification that the building complies with the design standards specified in 35 Ill. Adm. Code 725.1101. This certification must be in the generator's files prior to operation of the unit; and

B) The following records, by use of inventory logs, monitoring equipment, or any other effective means:

i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with maintaining the 90 day limit,

and documentation that the SQG complies with the procedures; or

ii) Documentation that the SQG empties the unit at least once every 90 days.

iii) The SQG must maintain inventory logs or records with the above information on site and readily available for inspection.

6) Labeling and Marking of Containers and Tanks

A) Containers. An SQG must mark or label its containers with the following:

i) The words "Hazardous Waste";

ii) An indication of the hazards of the contents. Examples include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labeling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111; and

iii) The date upon which each period of accumulation begins clearly visible for inspection on each container.

B) Tanks. An SQG accumulating hazardous waste in tanks must do the following:

i) Mark or label its tanks with the words "Hazardous Waste";

ii) Mark or label its tanks with an indication of the hazards of the contents. Examples include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labeling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm.

Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111;

iii) Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 180 days of first entering the tank if using a batch process or, in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 180 days of first entering; and

iv) Keep inventory logs or records with the above information on site and readily available for inspection.

7) Land Disposal Restrictions. An SQG must comply with all the applicable requirements under 35 Ill. Adm. Code 728.

8) Preparedness and Prevention

A) Maintenance and Operation of Facility. An SQG must maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

B) Required Equipment. An SQG must equip all areas where hazardous waste is either generated or accumulated with the items in subsections (b)(8)(B)(i) through (b)(8)(B)(iv) (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). An SQG may determine the most appropriate places to locate equipment necessary to prepare for and respond to emergencies.

i) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

ii) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

iii) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

iv) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

C) Testing and Maintenance of Equipment. The SQG must test and maintain all communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, if required, as necessary to assure its proper operation in time of emergency.

D) Access to Communications or Alarm System

i) Whenever the SQG pours, mixes, spreads, or otherwise handles hazardous waste, all personnel involved in the operation must have immediate access (e.g.~~i.e.~~, direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless ~~such~~ a device is not required under subsection (b~~a~~)(8)(B).

ii) When there is just one employee on the premises while the facility is operating, the employee must have immediate access (e.g.~~i.e.~~, direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, that is capable of summoning external emergency assistance, unless ~~such~~ a device is not required under subsection (b~~a~~)(8)(B).

E) Required Aisle Space. The SQG must maintain aisle space that allows the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

F) Arrangements with Local Authorities

i) The SQG must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals, taking into account the types and quantities of hazardous wastes

handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if this is the appropriate organization with which to make arrangements. An SQG attempting to make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals. As part of this coordination, the SQG must attempt to make arrangements, as necessary, to familiarize the above organizations with the layout of the facility, the properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes, as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the facility. If more than one police or fire department might respond to an emergency, the SQG must attempt to make arrangements designating primary emergency authority to a specific fire or police department and with any others to provide support to the primary emergency authority.
BOARD NOTE: The State Emergency Response Commission (SERC) maintains an on-line listing of Local Emergency Planning Committees in Illinois by jurisdiction: www.illinois.gov/iema/Preparedness/SERC/Documents/LEPC_ReleaseReportingContactList.pdf.

ii) An SQG must maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms these arrangements actively exist or, in cases where no arrangements exist, confirming that the SQG attempted to make these arrangements.

iii) A facility possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction over the fire code within Illinois or the facility's locality, as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the SQG documents the waiver in the operating record.

9) Emergency Procedures. The SQG must comply with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

A) At all times, at least one employee must be either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in subsection (b)(9)(D). This employee is the emergency coordinator.

B) The SQG must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

i) The name and emergency telephone number of the emergency coordinator;

ii) The location of fire extinguishers and spill control material, and, if present, fire alarm; and

iii) The telephone number of the fire department, unless the facility has a direct alarm.

C) The SQG must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures that are relevant to their responsibilities during normal facility operations and emergencies;

D) The emergency coordinator or ~~his or her~~its designee must respond to any emergencies that arise. The required responses are the following:

i) In the event of a fire, the emergency coordinator must call the fire department or attempt to extinguish the fire using a fire extinguisher;

ii) When a spill occurs, the SQG must contain the flow of hazardous waste to the extent possible and, as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil. The SQG can either itself conduct this containment and cleanup or have a contractor perform the work on its behalf;

iii) When a fire, explosion, or other release occurs that could threaten human health outside the facility, or when the SQG has knowledge that a spill has reached surface water,

the SQG must immediately notify the National Response Center (using the 24-hour toll free number, 800-424–8802). The report must include the name, address, and USEPA identification number of the SQG; the date, time, and type of incident (e.g., spill or fire); the quantity and type of hazardous waste involved in the incident; the extent of any injuries; and the estimated quantity and disposition of any recovered materials.

c) Transporting Waste More Than 200 Miles. An SQG that must transport its waste or offer its waste for transportation over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on site for 270 days or less without having a permit or interim status, provided that the SQG complies with the conditions of subsection (b).

d) Accumulation Time Limit Extension. An SQG that accumulates hazardous waste for more than 180 days (or for more than 270 days if the SQG must transport its waste or offer its waste for transportation over a distance of 200 miles or more for off-site treatment, storage, or disposal) is subject to the requirements of 35 Ill. Adm. Code 702, 703, 724, 725, 727, and 728, unless the Agency has granted the SQG an extension to the 180-day (or 270-day if applicable) period. The Agency may grant an extension if hazardous wastes must remain on site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. The Agency may grant an extension of up to 30 days on a case-by-case basis.

BOARD NOTE: The Agency may grant a provisional variance that extends the permissible accumulation period under sections 35(b) and 36(c) of the Act. This subsection provides the basis for granting and maximum duration of an extension.

e) Rejected Loads

1) An SQG may accumulate returned waste on site in ~~accordance~~ compliance with subsections (a) through (d) under the following conditions:

A) The SQG sent the shipment of hazardous waste to a designated facility believing that the designated facility could accept and manage the waste; and

B) The generator later received that shipment back as a rejected load or residue in ~~accordance~~ compliance with the manifest discrepancy provisions of 35 Ill. Adm. Code 724.172 or 725.172.

2) Upon receipt of the returned shipment, the SQG must do either of the following:

A) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

B) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

f) An SQG experiencing an episodic event may accumulate hazardous waste in ~~accordance~~ compliance with Subpart L ~~in lieu~~instead of Section 722.117.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.117 Conditions for Exemption for a Large Quantity Generator That Accumulates Hazardous Waste

An LQG may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of 35 Ill. Adm. Code 702, 703 and 724 through 727 or ~~and~~ the notification requirements of section 3010 of RCRA (42 USC 6930) for treatment, storage, and disposal facilities, ~~provided that~~if the LQG meets all of the following conditions for exemption:

a) Accumulation. The LQG may accumulate hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in subsections (b) through (e). The following accumulation conditions also apply:

1) Accumulation of Hazardous Waste in Containers. If the hazardous waste is placed in containers, the LQG must comply with the following requirements:

A) Air Emission Standards. The LQG must comply with the applicable requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 725;

B) Condition of Containers. If a container holding hazardous waste is not in good condition, or if the container begins to leak, the LQG must immediately transfer the hazardous waste from the leaking container to a container that is in good condition or otherwise immediately manage the waste in some other way that complies with the conditions for exemption of this Section;

C) Compatibility of Waste with Container. The LQG must use a container made of or lined with materials that will not react with and are otherwise compatible with the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;

D) Management of Containers

i) The LQG must always keep a container holding hazardous waste closed during accumulation, except when it is necessary to add or remove waste.

ii) The LQG must not open, handle, or store a container holding hazardous waste in a manner that may rupture the container or cause the container to leak.

E) Inspections. At least weekly, the LQG must inspect central accumulation areas. The LQG must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See subsection (a)(1)(B) for remedial action required if the LQG detects deterioration or leaks.

F) Special Conditions for Accumulation of Ignitable and Reactive Wastes

i) The LQG must locate containers holding ignitable or reactive waste at least 15 meters (50 feet) from the facility's property line, unless the LQG obtains a written approval from the authority having jurisdiction over the local fire code that allows hazardous waste accumulation to occur within this restricted area. The LQG must maintain a record of the written approval as long as the LQG accumulates ignitable or reactive hazardous waste in this area.

ii) The LQG must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. The LQG must separate and protect this waste from sources of ignition or reaction, including~~, but not limited to,~~ the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), or radiant heat. While handling ignitable or reactive waste, the LQG must confine smoking and open flame to specially designated locations. The LQG must conspicuously place "No Smoking" signs wherever there is a hazard from ignitable or reactive waste.

G) Special Conditions for Accumulation of Incompatible Wastes

i) The LQG must not place incompatible wastes or incompatible wastes and materials (for examples, see appendix V to 40 CFR 265, incorporated by reference in 35

Ill. Adm. Code 720.111) in the same container, unless the LQG complies with 35 Ill. Adm. Code 725.117(b).

ii) The LQG must not place hazardous waste in an unwashed container that previously held an incompatible waste or material (for examples, see appendix V to 40 CFR 265, incorporated by reference in 35 Ill. Adm. Code 720.111), unless the LQG complies with 35 Ill. Adm. Code 725.117(b).

iii) The LQG must separate a container holding hazardous waste or otherwise protect it by means of a dike, berm, wall, or other device from any other incompatible waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments.

2) Accumulation of Hazardous Waste in Tanks. If the LQG places the waste in tanks, the LQG must comply with the applicable requirements of Subpart J, except 35 Ill. Adm. Code 725.297(c) (Closure and Post-Closure Care) and 35 Ill. Adm. Code 725.300 (Waste Analysis and Trial Tests) and the applicable requirements of Subparts AA, BB, and CC of 35 Ill. Adm. Code 725.

3) Accumulation of Hazardous Waste on Drip Pads. If the LQG places hazardous waste on drip pads, the LQG must comply with the following:

A) Subpart W of 35 Ill. Adm. Code 725;

B) The LQG must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that the LQG removes from the drip pad are subject to the 90-day accumulation limit in subsection (a) and Section 722.115, if the LQG manages the hazardous wastes in satellite accumulation areas prior to moving them to a central accumulation area; and

C) The LQG must maintain on site at the facility the following records readily available for inspection:

i) A written description of procedures that the LQG follows to ensure that it removes all wastes from the drip pad and associated collection system at least once every 90 days; and

ii) Documentation of each waste removal, including the quantity of waste that the LQG removed from the drip pad

and the sump or collection system and the date and time of removal.

4) Accumulation of Hazardous Waste in Containment Buildings. If the LQG places the waste in containment buildings, the LQG must comply with Subpart DD of 35 Ill. Adm. Code 725. The LQG must label its containment building with the words "Hazardous Waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site. The LQG must also provide in a conspicuous place an indication of the hazards of the contents. Examples include~~, but are not limited to,~~ the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labeling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111. The LQG must also maintain both of the following:

A) The professional engineer certification that the building complies with the design standards specified in 35 Ill. Adm. Code 725.1101. This certification must be in the LQG's files prior to operation of the unit; and

B) The following records, by use of inventory logs, monitoring equipment, or any other effective means:

i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with respecting the 90-day limit, and documentation that the LQG complies with the procedures

ii) Documentation that the LQG empties the unit at least once every 90 days.

iii) The LQG must maintain inventory logs or records with the above information on site and readily available for inspection.

5) Labeling and Marking of Containers and Tanks

A) Containers. An LQG must mark or label its containers with the following:

i) The words “Hazardous Waste”;

ii) An indication of the hazards of the contents. Examples include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (labeling) and subpart F (placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111; and

iii) The date upon which each period of accumulation begins clearly visible for inspection on each container.

B) Tanks. An LQG accumulating hazardous waste in tanks must do the following:

i) Mark or label its tanks with the words “Hazardous Waste”;

ii) Mark or label its tanks with an indication of the hazards of the contents. Examples include~~, but are not limited to,~~ the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labeling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111;

iii) Use inventory logs, monitoring equipment or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank if using a batch process or, in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days of first entering; and

iv) Keep inventory logs or records with the above information on site and readily available for inspection.

6) Emergency Procedures. The LQG must comply with the standards in Subpart M (Preparedness, Prevention and Emergency Procedures for Large Quantity Generators).

7) Personnel Training

A) Personnel Training Program

i) Facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic) or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this Part. The LQG must ensure that this program includes all the elements described in the document required under subsection (a)(7)(D)(iii).

ii) A person trained in hazardous waste management procedures must direct the program, and the program must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which the LQG employs them.

iii) At a minimum, the design of the training program must ensure that facility personnel can respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including, if applicable, procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; key parameters for automatic waste feed cut-off systems; communications or alarm systems; response to fires or explosions; response to ground-water contamination incidents; and shutdown of operations.

iv) For facility employees that receive emergency response training under 29 CFR 1910.120(p)(8) (Emergency response program) and 1910.120(q) (Emergency response to hazardous substance releases), incorporated by reference in 35 Ill. Adm. Code 720.111, the LQG is not required to provide separate emergency response training under this Section, ~~provided that~~if the overall facility training meets all the conditions of exemption in this Section.

B) Facility personnel must successfully complete the program required in subsection (a)(7)(A) within six months after the date of

their employment, assignment to the facility, or assignment to a new position at the facility, whichever is later. An employee must not work in unsupervised positions until ~~he or she has~~they have completed the training standards of subsection (a)(7)(A).

C) Facility personnel must take part in an annual review of the initial training required in subsection (a)(7)(A).

D) The LQG must maintain the following documents and records at the facility:

i) The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;

ii) A written job description for each position listed under subsection (a)(7)(D)(i). This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but the description must include the requisite skill, education, other qualifications, and duties of facility personnel assigned to each position;

iii) A written description of the type and amount of both introductory and continuing training that the LQG will give to each person filling a position listed under subsection (a)(7)(D)(i);

iv) Records documenting that the LQG has given and facility personnel has completed the training or job experience required by subsections (a)(7)(A), (B), and (C).

E) The LQG must keep training records on current personnel until closure of the facility. The LQG must keep training records on former employees for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

8) Closure. An LQG accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing the facility or a unit at the facility, must meet the following conditions:

A) Notification for Closure of a Waste Accumulation Unit. An LQG must perform one of the following when closing a waste accumulation unit but not undergoing final closure:

i) Place a notice in the operating record within 30 days after closure identifying the location of the unit within the facility; or

ii) Meet the closure performance standards of subsection (a)(8)(C) for container, tank, and containment building waste accumulation units or subsection (a)(8)(D) for drip pads and notify USEPA and the Agency following the procedures in subsection (a)(8)(B)(ii) for the waste accumulation unit. If the waste accumulation unit is subsequently reopened, the LQG may remove the notice from the operating record.

B) Notification for Closure of the Facility

i) Notify the Agency using Notification of RCRA Subtitle C Activities (Site Identification Form) (USEPA Form 8700-12) no later than 30 days prior to closing the facility.

ii) Notify the Agency using USEPA Form 8700-12 within 90 days after closing the facility that it has complied with the closure performance standards of subsection (a)(8)(C) or (a)(8)(D). If the facility cannot meet the closure performance standards of subsection (a)(8)(C) or (a)(8)(D), notify the Agency using USEPA Form 8700-12 that it will close as a landfill under 35 Ill. Adm. Code 725.410 in the case of a container, tank, or containment building units. If the facility cannot meet the closure performance standards of subsection (a)(8)(C) or (a)(8)(D), notify using USEPA Form 8700-12 that it will close under the standards of 35 Ill. Adm. Code 725.545(b) for a facility with drip pads.

iii) An LQG may request additional time to clean close, but it must notify the Agency using USEPA Form 8700-12 within 75 days after the date provided in subsection (a)(8)(B)(i) to request an extension and provide an explanation as to why the additional time is required.

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.

C) Closure Performance Standards for Container, Tank Systems, and Containment Building Waste Accumulation Units

i) At closure, the LQG must close the waste accumulation unit or facility in a manner that minimizes the need for further maintenance by controlling, minimizing, or eliminating the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere to the extent necessary to protect human health and the environment.

ii) The LQG must remove or decontaminate all contaminated equipment, structures, soil, and any remaining hazardous waste residues from waste accumulation units, including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless 35 Ill. Adm. Code 721.103(d) applies.

iii) The LQG must manage any hazardous waste generated in the process of closing the LQG's facility or units accumulating hazardous waste in ~~accordance~~ compliance with all applicable standards of 35 Ill. Adm. Code 722, 723, 725, and 728, including removing any hazardous waste contained in these units within 90 days of generating the waste and managing these wastes in a permitted or interim status hazardous waste treatment, storage, and disposal facility.

iv) If the LQG demonstrates that it cannot practicably remove or decontaminate any contaminated soils and wastes, as required in subsection (a)(8)(C~~B~~)(ii), then the waste accumulation unit is considered a landfill, and the LQG must close the waste accumulation unit and perform post-closure care in ~~accordance~~compliance with the closure and post-closure care requirements that apply to landfills (35 Ill. Adm. Code 725.410). In addition, the LQG must meet all ~~of the~~ requirements for landfills specified in Subparts G and H of 35 Ill. Adm. Code 725 for ~~the purposes of~~ closure, post-closure, and financial responsibility, for a waste accumulation unit that is a landfill.

D) Closure Performance Standards for Drip Pad Waste Accumulation Units. At closure, the LQG must comply with the closure requirements of subsections (a)(8)(B) and (a)(8)(C)(i), and (a)(8)(C)(iii) and 35 Ill. Adm. Code 725.545(a) and (b).

E) The closure requirements of this subsection (a)(8) do not apply to satellite accumulation areas.

9) Land Disposal Restrictions. The LQG must comply with all applicable requirements of 35 Ill. Adm. Code 728.

b) Accumulation Time Limit Extension. An LQG that accumulates hazardous waste for more than 90 days is subject to the requirements of 35 Ill. Adm. Code 702, 703, and 724 through 728 and the notification requirements of section 3010 of RCRA (42 USC 6930) for treatment, storage, and disposal facilities, unless the Agency ~~has~~ granted the LQG an extension to the 90-day period. The Agency may grant an extension if hazardous wastes must remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. The Agency may grant an extension of up to 30 days on a case-by-case basis.

BOARD NOTE: The Agency may grant a provisional variance that extends the permissible accumulation period under sections 35(b) and 36(c) of the Act. This subsection provides the basis for granting and maximum duration of an extension.

c) Accumulation of F006 Waste. An LQG also generating wastewater treatment sludges from electroplating operations that meet the listing description for USEPA hazardous waste number F006, may accumulate F006 waste on site for more than 90 days but not more than 180 days without being subject to 35 Ill. Adm. Code 702, 703, and 724 through 727 and the notification requirements of section 3010 of RCRA (42 USC 6930) for treatment, storage, and disposal facilities, provided that the LQG complies with all of the following additional conditions for exemption:

1) The LQG has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering F006 waste or otherwise being released to the environment prior to recycling of the waste;

2) The F006 waste is legitimately recycled through metals recovery;

3) The LQG accumulates no more than 20,000 kg of F006 waste on site at any one time; and

4) The LQG manages the F006 waste in ~~accordance~~ compliance with the following requirements:

A) Requirements for Managing F006 Waste

i) If the LQG places the F006 waste in containers, the LQG must comply with the applicable conditions for exemption in subsection (a)(1).

ii) If the LQG places the F006 waste in tanks, the LQG must comply with the applicable conditions for exemption in subsection (a)(2).

iii) If the LQG places the F006 waste in containment buildings, the LQG must comply with Subpart DD of 35 Ill. Adm. Code 725. Prior to operation of the unit, the LQG must place in the operating record of the facility the certification of a professional engineer that the containment building complies with the design standards specified in 35 Ill. Adm. Code 725.1101. The LQG must also place in the operating record either documentation that the LQG empties the unit is at least once every 180 days or all three of the following items: a written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the facility waste generation and management practices showing that the practices are consistent with the 180-day limit, and documentation that the LQG is complying with the procedures.

B) The LQG is exempt from all requirements of Subparts G and H of 35 Ill. Adm. Code 725, except for those referenced in subsection (a)(8).

C) The LQG must clearly mark the date upon which each period of accumulation begins, and the date must be clearly visible for inspection on each container.

D) While accumulating waste on site, the LQG must clearly labeled or mark each container and tank is with the following:

i) The words “Hazardous Waste”; and

ii) An indication of the hazards of the contents. Examples include~~, but are not limited to,~~ the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labeling) and subpart F (Placarding) of 49 CFR 172; a hazard statement or pictogram consistent with 29 CFR 1910.1200; or a chemical hazard label consistent with NFPA 704, each incorporated by reference in 35 Ill. Adm. Code 720.111.

E) The LQG must comply with the requirements in subsections (a)(6) and (a)(7).

d) F006 Waste Transported over 200 Miles. An LQG also generating wastewater treatment sludges from electroplating operations that meet the listing description for the USEPA hazardous waste number F006, may accumulate F006 waste on site for more than 90 days but not more than 270 days without being subject to 35 Ill. Adm. Code 702, 703, and 724 through 727 and the notification requirements of section 3010 of RCRA (42 USC 6930) for treatment, storage, and disposal facilities, if the LQG must transport this waste or offer this waste for transportation over a distance of 200 miles or more for off-site metals recovery and the LQG complies with all of the conditions for exemption of subsections (c)(1) through (c)(4).

e) F006 Waste Accumulation Time Extension. An LQG accumulating F006 waste in ~~accordance~~compliance with subsections (c) and (d) that either accumulates F006 waste on site for more than 180 days (or for more than 270 days if the LQG must transport this waste or offer this waste for transportation over a distance of 200 miles or more) or accumulates more than 20,000 kg (44,000 lbs) of F006 waste on site is an operator of a storage facility and is subject to the requirements of 35 Ill. Adm. Code 702, 703, 724, 725, 727 and the notification requirements of section 3010 of RCRA (42 USC 6930) for treatment, storage, and disposal facilities, unless the Agency has granted the LQG an extension to the 180-day period (or 270-day period, if applicable) or an exception to the 20,000- kg (44,000- lb) accumulation limit. The Agency may grant an extension of the accumulation period or an exception to the accumulation limit if F006 waste must remain on site for longer than 180 days (or 270 days, if applicable) or if more than 20,000 kg (44,000 lbs) of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. The Agency may grant an extension of up to 30 days or an exception to the accumulation limit on a case-by-case basis.

BOARD NOTE: The Agency may grant a provisional variance that extends the permissible accumulation period or accumulation amount limit under sections 35(b) and 36(c) of the Act. This subsection provides the basis for granting and maximum duration of an extension.

f) Consolidation of Hazardous Waste Received from VSQGs. An LQG may accumulate on site hazardous waste received from a VSQG under control of the same person (as defined in 35 Ill. Adm. Code 720.110), without a storage facility permit or interim status and without complying with the requirements of 35 Ill. Adm. Code 702, 703, and 724 through 728 and the notification requirements of section 3010 of RCRA (42 USC 6930) for treatment, storage, and disposal facilities, provided that the LQG complies with the following conditions. "Control", for ~~the purposes of~~ this Section, means the power to direct the policies of the LQG and VSQG, whether by the ownership of stock, voting rights, or

otherwise, except that a contractor that operates a LQG or VSQG facility on behalf of a different person is not be ~~deemed~~ considered to "control" the LQG or VSQG.

1) The LQG must notify the Agency at least 30 days prior to receiving the first shipment from a VSQG using Notification of RCRA Subtitle C Activities (Site Identification Form) (USEPA Form 8700-12); and

   A) The LQG must identify on the form the names and site addresses for the VSQG as well as the name and business telephone number for a contact person for the VSQG; and

   B) The LQG must submit an updated USEPA Form 8700-12 within 30 days after a change in the name or site address for the VSQG.

   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.

2) The LQG maintains records of shipments for three years from the date the LQG receives the hazardous waste from the VSQG. These records must identify the name, site address, and contact information for the VSQG and include a description of the hazardous waste received, including the quantity and the date the LQG received the waste.

3) The LQG must comply with the independent requirements identified in Section 722.110(a)(1)(C) and the conditions for exemption in this Section for all hazardous waste received from a VSQG. For ~~purposes of~~ the labeling and marking regulations in subsection (a)(5), the LQG must label the container or unit with the date accumulation started (i.e., the date the LQG received the hazardous waste from the VSQG). If the LQG is consolidating incoming hazardous waste from a VSQG with either its own hazardous waste or with hazardous waste from other VSQGs, the LQG must label each container or unit with the earliest date when the VSQG first accumulated on site any hazardous waste in the container.

g) Rejected Load. An LQG may accumulate the returned waste on site in ~~accordance~~ compliance with subsections (a) and (b) if the LQG sent the shipment of hazardous waste to a designated facility believing that the designated facility can accept and manage the waste and later received that shipment back as a rejected load or residue in ~~accordance~~compliance with the manifest discrepancy provisions of 35 Ill. Adm. Code 724.172 or 725.172. Upon receipt of the returned shipment, the LQG must do either of the following:

1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.142 Exception Reporting

a) ~~Generators of greater than 1,000 kg (2,200 lbs) of hazardous waste in a calendar month~~For LQG.

1) A LQG ~~generator of 1,000 kg (2,200 lbs) or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in a calendar month,~~ that does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days after the date the waste was accepted by the initial transporter must contact the transporter or the owner or operator of the designated facility to determine the status of the hazardous waste.

2) A LQG ~~generator of 1,000 kg (2,200 lbs) or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e) in a calendar month,~~ must submit an Exception Report to the Agency if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days after the date the waste was accepted by the initial transporter. The Exception Report must include the following documents:

A) A legible copy of the manifest for which the generator does not have a confirmation of delivery; and

B) A cover letter signed by the generator or the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the result of those efforts.

b) A ~~generator of greater than 100 kg (220 lbs) but less than 1,000 kg (2,200 lbs) of hazardous waste in a calendar month~~SQG that does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days after the date the waste was accepted by the initial transporter must submit a legible copy of the manifest to the Agency, with some indication that the generator has not received confirmation of delivery.

BOARD NOTE: The submission need be only a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the returned copy was not received.

c) A generator must comply with the requirements of subsection (a) or (b), as applicable, when a designated facility has forwarded a rejected shipment of hazardous waste or container residues contained in non-empty containers to an alternate facility using a new manifest (following the procedures of 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or 725.172(e)(1) through (e)(6)). For ~~purposes of~~ generator compliance with subsection (a) or (b), when a designated facility forwards a shipment of rejected waste to an alternate facility, the following requirements apply:

1) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility; and

2) The 35-, 45-, or 60-day timeframes begin on the date that the initial transporter accepts the waste from the designated facility for shipment to the alternate facility.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.182 General Conditions

a) Scope. The level of control for exports and imports of waste is indicated by designation of the waste as either Green waste or Amber waste, as ~~such are~~ defined in Section 722.181, and whether the waste is or is not hazardous waste.

1) Green Wastes

A) Green waste that is not hazardous waste is subject to existing controls normally applied to commercial transactions and is not subject to the requirements of ~~this~~ Subpart H.

B) Green waste that is hazardous waste is subject to the requirements of ~~this~~ Subpart H.

2) Amber Wastes

A) Amber waste that is hazardous waste is subject to the Amber control procedures ~~set forth~~ in ~~this~~ Subpart H, even if it is imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export.

i) For exports, exporter must comply with Section 722.183.

ii) For imports, the recovery or disposal facility and the importer must comply with Section 722.184.

B) Amber waste that is not hazardous waste, but which is considered hazardous by the other country, is subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of ~~this~~ Subpart H. All responsibilities of the U.S. importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

BOARD NOTE: Some Amber wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of ~~this~~ Subpart H. Regardless of the status of the waste under RCRA, however, other federal environmental statutes (e.g., the Toxic Substances Control Act (42 USC 2601 et seq.)) restrict certain waste imports or exports. These other federal restrictions continue to apply without regard to the applicability or inapplicability of ~~this~~ Subpart H.

3) Mixtures

A) A Green waste that is mixed with one or more other Green wastes such that the resulting mixture is not hazardous waste is not subject to the requirements of ~~this~~ Subpart H.

BOARD NOTE: USEPA has noted that the law of some countries may require that mixtures of different Green wastes be subject to the Amber control procedures.

B) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes that is hazardous waste is subject to the requirements of ~~this~~ Subpart H.

BOARD NOTE: USEPA has noted that the law of some countries may require that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.

4) Waste that is not yet OECD-listed waste is eligible for transboundary movements, as follows:

A) If the ~~such~~ waste is hazardous waste, the waste is subject to the requirements of ~~this~~ Subpart H.

B) If the ~~such~~ waste is not hazardous waste, the waste is not subject to the requirements of ~~this~~ Subpart H.

b) General Conditions Applicable to Transboundary ~~-~~Movements of Hazardous Waste

1) The hazardous waste must be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the country of import;

2) The transboundary movement must comply with applicable international transport agreements; and

BOARD NOTE: These international agreements include, ~~but are not limited to,~~ the Chicago Convention (1944), ADR (1957), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

3) Any transit of hazardous waste through one or more countries must comply with all applicable international and national laws and regulations.

c) Duty to return wastes subject to the Amber control procedures during transit through the United States. When a transboundary movement of hazardous waste subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover or dispose of these wastes in an environmentally sound manner, the waste must be returned to the country of export. The U.S. transporter must inform EPA at the specified mailing address in subsection (e) of the need to return the shipment. USEPA will then inform the competent authority of the country of export, citing the reasons for returning the waste. The U.S. transporter must complete the return within 90 days from the time USEPA informs the country of export of the need to return the waste, unless informed in writing by USEPA of another timeframe agreed to by the concerned countries.

d) Laboratory Analysis Exemption. Export or import of a hazardous waste sample is exempt from the requirements of ~~this~~ Subpart H if the sample is destined for laboratory analysis to assess its physical or chemical characteristics or to determine its suitability for recovery or disposal operations, the sample does not exceed 25 kg (55 pounds) in quantity, the sample is appropriately packaged and labeled, and the sample complies with the conditions of 35 Ill. Adm. Code 721.104(d) or (e).

e) USEPA Address for Submittals by Postal Mail or Hand Delivery. Submittals required in ~~this~~ Subpart H to be made by postal mail or hand delivery should be sent to the following addresses:

1) For Postal Mail Delivery:

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

2) For Hand-Delivery:

Office of Land and Emergency Management
Office of Resource Conservation and Recovery
Materials Recovery and Waste Management Division
International Branch (Mail Code 2255T)
~~Office of Enforcement and Compliance Assurance~~
~~Office of Federal Activities~~
~~International Compliance Assurance Division~~
Environmental Protection Agency
William Jefferson Clinton South Bldg., Room 6144
12th St. and Pennsylvania Ave NW.
Washington, DC 20004.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE DETERMINATION AND ACCUMULATION OF UNWANTED MATERIAL FOR LABORATORIES OWNED BY ELIGIBLE ACADEMIC ENTITIES

Section 722.300 Definitions

The following definitions apply for ~~the purposes of this~~ Subpart K:

"College or University" means a private or public post-secondary degree-granting academic institution that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

BOARD NOTE: The Department of Education maintains on-line lists of accrediting agencies on the Internet at the following address: www.ed.gov/admins/finaid/accred/accreditation_pg6.html#NationallyRecognized.

"Eligible academic entity" means a college or university, a non-profit research institute that is owned by or which has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or which has a formal written affiliation agreement with a college or university.

"Formal written affiliation agreement" for a non-profit research institute means a written document that establishes a relationship between institutions for ~~the purposes of~~ research or education and which is signed by an authorized representative, as that term is defined in 35 Ill. Adm. Code 720.110, from each institution. A relationship that exists on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. "Formal written affiliation agreement" for a teaching hospital means a "master affiliation agreement" and "program letter of agreement", as these terms are defined in the document entitled "Accreditation Council for Graduate Medical Education: Glossary of Terms", incorporated by reference in 35 Ill. Adm. Code 720.111, with an accredited medical program or medical school.

"Laboratory" means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are laboratories within the meaning of this definition. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also laboratories within the meaning of this definition.

"Laboratory clean-out" means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or which have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor or occupant. A regularly scheduled removal of unwanted material, as required by Section 722.308, does not qualify as a laboratory clean-out within the meaning of this definition.

"Laboratory worker" means a person who handles chemicals or unwanted material in a laboratory. This may include, but is not limited to, any member of faculty or staff, a post-doctoral fellow, an intern, a researcher, a technician, a supervisor or manager, or a principal investigator. A person does not need to be paid or otherwise compensated for his or her work in the laboratory to be considered a laboratory worker. An undergraduate or graduate student in a supervised classroom setting is not a laboratory worker.

"Non-profit research institute" means an organization that conducts research as its primary function and which files as a nonprofit organization under section 501(c)(3) of the federal tax code (26 USC 501(c)(3)).

"Reactive acutely hazardous unwanted material" means an unwanted material that is one of the acutely hazardous commercial chemical products listed in 35 Ill. Adm. Code 721.133(e) for reactivity.

"Teaching hospital" means a hospital that trains students to become physicians, nurses, or other health or laboratory personnel.

"Trained professional" means a person who has completed the applicable RCRA training requirements of 35 Ill. Adm. Code 722.117(a)(7), for an LQG, or who is knowledgeable about normal operations and emergencies in ~~accordance~~compliance with Section 722.116(b)(9)(C), for an SQG or VSQG that opt into 35 Ill. Adm. Code. 722.Subpart K. A trained professional may be an employee of the eligible academic entity or a contractor or vendor who meets the requisite training requirements.

"Unwanted material" means any chemical, mixtures of chemicals, products of experiments, or other material from a laboratory that is no longer needed, wanted, or usable in the laboratory and which is destined for hazardous waste determination by a trained professional. Unwanted material includes reactive acutely hazardous unwanted material, material that may eventually be determined not to be solid waste under ~~pursuant to~~ 35 Ill. Adm. Code 721.102, or a hazardous waste under ~~pursuant to~~ 35 Ill. Adm. Code 721.103. If an eligible academic entity elects to use another equally effective term ~~in lieu~~instead of "unwanted material", as allowed by Section 722.306(a)(1)(A), the equally effective term will have the same meaning, and the material designated by that term will be subject to the same requirements as "unwanted material" under ~~this~~ Subpart K.

"Working container" means a small container (i.e., two gallons (7.6 ℓ) or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 722.332 Conditions for a Generator Managing Hazardous Waste from an Episodic Event

a) VSQGs. A VSQG may maintain its existing generator category for hazardous waste generated during an episodic event provided that the generator complies with the following conditions:

1) The VSQG is limited to one episodic event per calendar year, unless the Agency has determined that an additional episodic event is necessary, as provided in Section 722.333;

2) Notification. The VSQG must notify the Agency no later than 30 calendar days prior to initiating a planned episodic event using Notification of RCRA Subtitle C Activities (Site Identification From) (USEPA Form 8700-12). In the event of an unplanned episodic event, the generator must notify Agency within 72 hours of the unplanned event via phone, email, or fax and subsequently submit USEPA Form 8700-12. The generator must include the start date and end date of the episodic event, the reasons for the event and the types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and the generator must identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency in compliance with Section 722.116(b)(9)(A);

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.

3) USEPA Identification Number. The VSQG must have a USEPA identification number or obtain a USEPA identification number using USEPA Form 8700-12;

4) Accumulation. A VSQG is prohibited from accumulating hazardous waste generated from an episodic event on drip pads or in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

A) Containers. A VSQG accumulating in containers must mark or label its containers with the following:

i) The words “Episodic Hazardous Waste”;

ii) An indication of the hazards of the contents. Examples include~~, but are not limited to,~~ the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labelling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical

hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111; and

iii) The date when the episodic event began, clearly visible for inspection on each container.

B) Tanks. A VSQG accumulating episodic hazardous waste in tanks must do the following:

i) Mark or label the tank with the words "Episodic Hazardous Waste";

ii) Mark or label its tanks with an indication of the hazards of the contents. Examples include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with subpart E (Labeling) and subpart F (Placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111;

iii) Use inventory logs, monitoring equipment, or other records to identify the date upon which each episodic event begins; and

iv) Keep inventory logs or records with the information required by subsection (a)(4)(B)(iii) on site and readily available for inspection.

C) The generator must manage hazardous waste in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

i) Containers must be in good condition and compatible with the hazardous waste being accumulated in them. The generator must keep containers closed except to add or remove waste; and

ii) Tanks must be in good condition and compatible with the hazardous waste accumulated in them. Tanks must have procedures in place to prevent the overflow (e.g., be

equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank). Tanks must be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure that the generator operates the tank according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

5) The VSQG must comply with the hazardous waste manifest provisions of Subpart B and the recordkeeping provisions for SQG in Section 722.144 when the VSQG sends its episodic event hazardous waste off site to a designated facility, as defined in 35 Ill. Adm. Code 720.110.

6) The VSQG has up to 60 calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in 35 Ill. Adm. Code 720.110.

7) A VSQG must maintain the following records for three years from the end date of the episodic event:

A) The beginning and end dates of the episodic event;

B) A description of the episodic event;

C) A description of the types and quantities of hazardous wastes generated during the event;

D) A description of how the hazardous waste was managed, as well as the name of the RCRA-designated facility that received the hazardous waste;

E) The names of hazardous waste transporters; and

F) The approval letter from the Agency if the generator requested the Agency under Section 722.333 to conduct one additional episodic event per calendar year.

b) SQGs. An SQG may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

1) The SQG is limited to one episodic event per calendar year, unless the Agency has determined that an additional episodic event is necessary, as provided in Section 722.333;

2) Notification. The SQG must notify Agency no later than 30 calendar days prior to initiating a planned episodic event using USEPA Form 8700-12 (Notification of RCRA Subtitle C Activities (Site Identification From)). In the event of an unplanned episodic event, the SQG must notify Agency within 72 hours of the unplanned event via phone, email, or fax and subsequently submit USEPA Form 8700-12. The SQG must include the start date and end date of the episodic event, the reasons for the event and the types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and the generator must identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency;

   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.

3) USEPA Identification Number. The SQG must have a USEPA identification number or obtain a USEPA identification number using USEPA Form 8700-12; and

4) Accumulation by SQGs. An SQG is prohibited from accumulating hazardous wastes generated from an episodic event ~~waste~~ on drip pads and ~~or~~ in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

   A) Containers. An SQG accumulating episodic hazardous waste in containers must meet the standards at Section 722.116(b)(2) and must mark or label its containers with the following:

      i) The words “Episodic Hazardous Waste”;

      ii) An indication of the hazards of the contents. Examples include, but are not limited to, the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic); hazard communication consistent with the USDOT requirements at subpart E (labeling) and subpart F (placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm.

Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111; and

iii) The date when the episodic event began, clearly visible for inspection on each container.

B) Tanks. An SQG accumulating episodic hazardous waste in tanks must meet the standards at Section 722.116(b)(3) and must do the following:

i) Mark or label its tank with the words "Episodic Hazardous Waste";

ii) Mark or label its tanks with an indication of the hazards of the contents. Examples include~~, but are not limited to,~~ the applicable hazardous waste characteristics (i.e., ignitable, corrosive, reactive, or toxic) listed in Subpart C or D of 35 Ill. Adm. Code 721; hazard communication consistent with USDOT requirements at subpart E (labeling) and subpart F (placarding) of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111; a hazard statement or pictogram consistent with 29 CFR 1910.1200 (Hazard Communication), incorporated by reference in 35 Ill. Adm. Code 720.111; or a chemical hazard label consistent with NFPA 704, incorporated by reference in 35 Ill. Adm. Code 720.111;

iii) Use inventory logs, monitoring equipment or other records to identify the date upon which episodic event ~~each period of accumulation~~ begins ~~and ends~~; and

iv) Keep inventory logs or records with the above information on site and available for inspection.

5) The SQG must treat hazardous waste generated from an episodic event on site or manifest and ship the ~~such~~ hazardous waste off site to a designated facility (as defined by 35 Ill. Adm. Code 720.110) within 60 calendar days from the start of the episodic event.

6) The SQG must maintain the following records for three years from the end date of the episodic event:

A) The beginning and end dates of the episodic event;

B) A description of the episodic event;

C) A description of the types and quantities of hazardous wastes generated during the event;

D) A description of how the hazardous waste was managed as well as the name of the designated RCRA facility (as defined by 35 Ill. Adm. Code 720.110) that received the hazardous waste;

E) The names of hazardous waste transporters; and

F) The approval letter from the Agency if the generator requested the Agency under Section 722.333 to conduct one additional episodic event per calendar year.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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

PART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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724.1202 Closure and Post-Closure Care

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

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17773, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1724, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11726, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22614, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg.

601, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 5999, effective May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15347, effective September 3, 2020; amended in R21-13 at 48 Ill. Reg. _____, effective _____; amended in R24-12 at 48 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope, and Applicability

a) This~~e purpose of this~~ Part ~~is to~~ establish~~es~~ minimum standards that define the acceptable management of hazardous waste.

b) The standards in this Part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.

c) This Part applies to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401 et seq.) only to the extent they are included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141. A "RCRA permit" is a permit required by Section 21(f) of the Environmental Protection Act and 35 Ill. Adm. Code 703.121.

BOARD NOTE: This Part does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

d) This Part applies to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency under Section 12(g) of the Act only to the extent they are required by Subpart F of 35 Ill. Adm. Code 704.

BOARD NOTE: This Part does apply to the above-ground treatment or storage of hazardous waste before it is injected underground.

e) This Part applies to the owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141.

f) This subsection (f) corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to T/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with USEPA rules.

g) This Part does not apply to the following:

1) The owner or operator of a facility permitted by the Agency under Section 21 of the Act to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 722.114.

BOARD NOTE: The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit under 35 Ill. Adm. Code 807.210.

2) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4) (except to the extent that requirements of this Part are referred to in Subpart C, F, G, or H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739).

3) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.114, 722.115, 722.116, ~~or~~ 722.117, or 722.Subpart K or L.

4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.

5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.

6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T to 35 Ill. Adm. Code 728) or reactive (D003) waste to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b).

7) This subsection (g)(7) corresponds with 40 CFR 264.1(g)(7), reserved by USEPA. This statement maintains structural consistency with USEPA rules.

8) Immediate Response

A) Except as provided in subsection (g)(8)(B), a person engaged in treatment or containment activities during immediate response to any of the following situations:

i) A discharge of a hazardous waste;

ii) An imminent and substantial threat of a discharge of hazardous waste;

iii) A discharge of a material that becomes a hazardous waste when discharged; or

iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D.

C) Any person that is covered by subsection (g)(8)(A) and that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities.

D) In the case of an explosives or munitions emergency response, if a federal, State, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to adequately protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

9) A transporter storing manifested shipments of hazardous waste in containers meeting 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.

10) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container, and Sections 724.117(b), 724.271, and 724.272 are complied with.

11) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is

subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:

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

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

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

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

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

12) This subsection (g)(12) corresponds with 40 CFR 264.1(g)(12), which applies only to a facility outside Illinois. This statement maintains structural consistency with the corresponding USEPA rule.

13) A reverse distributor accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in 35 Ill. Adm. Code 726.600. A reverse distributor is subject to regulation under Subpart P of 35 Ill. Adm. Code 726 ~~in lieu~~instead of this Part for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

h) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.

i) 35 Ill. Adm. Code 726.505 identifies when this Part applies to the storage of military munitions classified as solid waste under 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, and 738.

j) Subparts B, C, and D and Section 724.201 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes. In these cases, Subparts B, C, and D, and Section 724.201 do apply to the facility subject to the traditional RCRA permit.) Instead of Subparts B, C, and D, the owner or operator of a remediation waste management site must comply with the following requirements:

1) The owner or operator must obtain a USEPA identification number by applying to the Agency using Notification of RCRA Subtitle C Activities

(Site Identification Form) (USEPA Form 8700-12), as described in Section 724.111;

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.

2) The owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis must contain all of the information that must be known to treat, store, or dispose of the waste according to this Part and 35 Ill. Adm. Code 728, and the owner or operator must keep the analysis accurate and up to date;

3) The owner or operator must prevent people who are unaware of the danger from entering the site, and the owner or operator must minimize the possibility for unauthorized people or livestock entering onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate the following to the Agency:

A) That physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site will not injure people or livestock that may enter the active portion of the remediation waste management site; and

B) That disturbance of the waste or equipment by people or livestock that enter onto the active portion of the remediation waste management site will not cause a violation of the requirements of this Part;

4) The owner or operator must inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing or may lead to a release of hazardous waste constituents to the environment or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and the owner or operator must remedy the problem before it leads to a human health or environmental hazard. If a hazard is imminent or has already occurred, the owner or operator must immediately take remedial action;

5) The owner or operator must provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with this Part, and on how to respond effectively to emergencies;

6) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and the owner or operator must prevent threats to human health and the environment from ignitable, reactive, and incompatible waste;

7) For remediation waste management sites subject to regulation under Subparts I through O and Subpart X, the owner or operator must design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can meet the requirements of Section 724.118(b);

8) The owner or operator must not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave;

9) The owner or operator must develop and maintain a construction quality assurance program for all surface impoundments, waste piles, and landfill units that are required to comply with Sections 724.321(c) and (d), 724.351(c) and (d), and 724.401(c) and (d) at the remediation waste management site, according to Section 724.119;

10) The owner or operator must develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures must address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan must be to minimize the possibility of, and the hazards from, a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan must explain specifically how to treat, store, and dispose of the hazardous remediation waste in question, and must be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents occurs that could threaten human health or the environment;

11) The owner or operator must designate at least one employee, either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility quickly), to coordinate all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;

12) The owner or operator must develop, maintain, and implement a plan to meet the requirements in subsections (j)(2) through (j)(6) and (j)(9) through (j)(10); and

13) The owner or operator must maintain records documenting compliance with subsections (j)(1) through (j)(12).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 724.112 Required Notices

a) The owner or operator of a facility that is arranging to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 from a foreign source must submit the following required notices:

1) As required by 35 Ill. Adm. Code 722.184(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from USEPA and the competent authorities for the countries of transit, the owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to USEPA using the methods listed in 35 Ill. Adm. Code 722.182(e) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics; the same United Nations/USDOT identification number from the Hazardous Materials Table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111; the same USEPA hazardous waste numbers (from Subpart C or D of 35 Ill. Adm. Code 721); the waste codes from the lists in the OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111; and being sent from the same foreign exporter.

2) As required by 35 Ill. Adm. Code 722.184(d)(2)(O), a copy of the movement document with all the required signatures within three working days after receiving the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste, respectively; and, on or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's Waste Import Export Tracking System (WIETS). The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may ~~satisfy~~meet this recordkeeping requirement by retaining electronically submitted documents in the facility's account on USEPA's WIETS, if copies are readily available for viewing and production upon request by any USEPA or Agency inspector. An owner or operator of a

facility may not be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS and the owner or operator of a facility has no responsibility.

3) As required by 35 Ill. Adm. Code 722.184(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, the owner or operator of the facility must inform USEPA, using the methods listed in 35 Ill. Adm. Code 722.184(b)(1) of the need to return or arrange alternate management of the shipment.

4) As required by 35 Ill. Adm. Code 722.184(g), the facility owner or operator must do the following:

A) The owner or operator must send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, within 30 days after completing recovery or disposal on the waste in the shipment and within one calendar year after receiving the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste. For shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS.

B) If the facility performed any of recovery operations R12, R13, or RC3 or disposal operations D13 through D15, the owner or operator must promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11 or RC1 to RC2, or one of disposal operations D1 through D12 or DC1 to DC2, to the competent authority of the country of export that controls the shipment as an export of hazardous waste. On or after the electronic import-export reporting compliance date, the owner or operator must make this submission to USEPA electronically using USEPA's WIETS, or its successor system. The recovery and disposal operations in this subsection (a)(4)(B) are defined in 35 Ill. Adm. Code 722.181.

b) The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that the owner or operator has the appropriate permits for, and will accept, the waste that the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record.

c) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this Part and 35 Ill. Adm. Code 702 and 703.

BOARD NOTE: An owner's or operator's failure to notify the new owner or operator of the requirements of this Part in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 724.115 General Inspection Requirements

a) The owner or operator must conduct inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator must inspect the facility for malfunctions and deterioration, operator errors, and discharges that may be causing or may lead to either of the following:

1) Release of hazardous waste constituents to the environment; or

2) A threat to human health.

b) Inspection Schedule

1) The owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

2) The owner or operator must keep this schedule at the facility.

3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) that are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in Sections 724.274, 724.293, 724.295, 724.326, 724.354, 724.378, 724.403, 724.447, 724.702, 724.933, 724.952, 724.953, 724.958,

and 724.983 through 724.990, where applicable. 35 Ill. Adm. Code 703 requires the inspection schedule to be submitted with Part B of the permit application. The Agency must evaluate the schedule, along with the rest of the application, to ensure that it adequately protects human health and the environment. As part of this review, the Agency may modify or amend the schedule as may be necessary.

c) The owner or operator must remedy any deterioration or malfunction of equipment or structures that the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

d) The owner or operator must record inspections in an inspection log or summary. The owner or operator must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made and the date, and nature of any repairs or other remedial actions.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 724.172 Manifest Discrepancies

a) "~~"~~Manifest discrepancies"~~"~~ are defined as any one of the following:

1) Significant differences (as defined by subsection (b)~~)~~ between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

3) Container residues, which are residues that exceed the quantity limits for empty containers ~~set forth~~ in 35 Ill. Adm. Code 721.107(b) and 726.607.

b) "~~"~~Significant differences in quantity"~~"~~ are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, ~~such as~~like a discrepancy of one drum in a truckload. "~~"~~Significant differences in type"~~"~~ are defined as obvious differences that can be discovered by inspection or waste analysis, ~~such as~~like waste solvent substituted for waste acid, or ~~as~~ toxic constituents not reported on the manifest or shipping paper.

c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or

transporter (*e.g.*, with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

d) Rejection of Hazardous Waste

1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers ~~set forth~~ in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator before sending ~~prior to forwarding~~ the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.

2) While the facility owner or operator is making arrangements to send ~~for forwarding~~ rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e) or (f).

e) Except as provided in subsection (e)(7), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator is required to prepare a new manifest complying ~~in accordance~~ with 35 Ill. Adm. Code 722.120(a) and the instructions ~~set forth~~ in subsections (e)(1) through (e)(6):

1) The facility owner or operator must write the generator's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then the facility owner or operator must write the generator's site address in the designated space in Item 5.

2) The facility owner or operator must write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) The facility owner or operator must sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

7) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility owner or operator must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (e)(1) through (e)(6).

f) Except as provided in subsection (f)(7), for rejected wastes and residues that must be sent back to the generator, the facility owner or operator is required to prepare a new manifest complying ~~in accordance~~ with 35 Ill. Adm. Code 722.120(a) and the instructions ~~set forth~~ in subsections (f)(1) through (f)(6) and (f)(8):

1) The facility owner or operator must write the facility's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then the facility owner or operator must write the facility's site address in the designated space for Item 5 of the new manifest.

2) The facility owner or operator must write the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) The facility owner or operator must sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

7) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility owner or operator must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (f)(1) through (f)(6) and (f)(8).

8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility owner or operator must also comply with the exception reporting requirements in 35 Ill. Adm. Code 722.142(a).

g) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers ~~set forth~~ in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility owner or operator must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies before ~~prior to their~~ being amended.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section 724.930 Applicability

a) ~~This~~ Subpart AA applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in Section 724.101).

b) Except for Sections 724.934(d) and (e), ~~this~~ Subpart AA applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw (parts per million by weight), if these operations are conducted as follows:

1) In units that are subject to the permitting requirements of 35 Ill. Adm. Code 703;

2) In a unit (including a hazardous waste recycling unit) that is not exempt from permitting under ~~the provisions of~~ 35 Ill. Adm. Code 722.117 ~~262.117~~ (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of 35 Ill. Adm. Code 703; or

3) In a unit that is exempt from permitting under ~~the provisions of~~ 35 Ill. Adm. Code 722.117~~262.117~~ (i.e., a 90-day tank or container) and ~~which~~ is not a recycling unit under the provisions of 35 Ill. Adm. Code 721.106.

c) Until the owner and operator receives a final permit incorporating the requirements of ~~this~~ Subpart AA, the owner and operator is subject to the requirements of Subpart AA of 35 Ill. Adm. Code 725.
BOARD NOTE: The requirements of Sections 724.932 through 724.936 apply to process vents on hazardous waste recycling units previously exempt under 35 Ill. Adm. Code 721.106(c)(1). Other exemptions under 35 Ill. Adm. Code 721.104 and 724.101(g) are not affected by these requirements.

d) Subsection~~This subsection~~ (d) corresponds with 40 CFR 264.1030(d), which is marked "reserved" by USEPA. This statement maintains structural consistency with USEPA rules.

e) ~~The requirements of this~~ Subpart AA do~~es~~ not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to ~~this~~ Subpart AA are equipped with and operating air emission controls in compliance ~~accordance~~ with the process vent requirements of an applicable federal Clean Air Act regulation codified under 40 CFR 60, 61, or 63. The documentation of compliance under regulations at 40 CFR 60, 61, or 63 must be kept with, or made readily available with, the facility operating record.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

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

PART 725
INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15,

1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11830, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 23725, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 634, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 6049, effective May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15374, effective September 3, 2020; amended in R21-13 at 48 Ill. Reg. _____, effective _____; amended in R24-12 at 48 Ill. Reg. _____, effective _____..

Section 725.101 Purpose, Scope, and Applicability

a) ~~The purpose of t~~This Part ~~is to~~ establish~~es~~ minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure care requirements, until post-closure care responsibilities are ~~fulfilled~~met.

b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 through 724.654 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste and that have fully complied with the requirements for interim status under Section 3005(e) of RCRA (42 USC 6925(e)) and 35 Ill. Adm. Code 703, until either a permit is issued under Section 3005 of RCRA (42 USC 6905) or Section 21(f) of the Environmental Protection Act, or until applicable closure and post-closure care responsibilities under this Part

are ~~fulfilled~~met, and to those owners and operators of facilities in existence on November 19, 1980 that have failed to provide timely notification as required by section 3010(a) of RCRA (42 USC 6930(a)) or that have failed to file Part A of the Permit Application, as required by federal 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities, except as specifically provided otherwise in this Part or in 35 Ill. Adm. Code 721.

BOARD NOTE: As stated in Section 3005(a) of RCRA (42 USC 6905(a)), after the effective date of regulations under that Section (i.e., 40 CFR 270 and 124) the treatment, storage, or disposal of hazardous waste is prohibited except in ~~accordance~~compliance with a permit. Section 3005(e) of RCRA (42 USC 6905(e)) provides for the continued operation of an existing facility that meets certain conditions until final administrative disposition of the owner's and operator's permit application is made.

c) ~~The requirements of t~~This Part do~~es~~ not apply to any of the following:

1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401 et seq.);

BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for incineration or disposal at sea, as provided in subsection (b).

2) This subsection (c)(2) corresponds with 40 CFR 265.1(c)(2), marked "reserved" by USEPA. This statement maintains structural consistency with USEPA rules;

3) The owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste;

BOARD NOTE: The owner or operator of a facility under subsections (c)(1) and (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person under 35 Ill. Adm. Code 702 and 703 or are required by Subpart F of 35 Ill. Adm. Code 704.

4) This subsection (c)(4) corresponds with 40 CFR 265.1(c)(4), which pertains exclusively to the applicability of the federal regulations in authorized states. There is no need for a parallel provision in the Illinois regulations. This statement maintains structural consistency with USEPA rules;

5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 722.114;

6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the extent that requirements of this Part are referred to in Subpart C, F, G, or H of 35 Ill. Adm. Code 726 or 35 Ill. Adm. Code 739;

7) A generator accumulating waste on-site in compliance with applicable conditions for exemption in 35 Ill. Adm. Code 722.114 through 722.117 and Subparts K and L of 35 Ill. Adm. Code 722, except to the extent the requirements of this Part are included in those Sections and Subparts;

8) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170;

9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;

10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in Table T of 35 Ill. Adm. Code 728) or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator must comply with the requirements set forth in Section 725.117(b);

11) Immediate Response

A) Except as provided in subsection (c)(11)(B), a person engaged in treatment or containment activities during immediate response to any of the following situations:

i) A discharge of a hazardous waste;

ii) An imminent and substantial threat of a discharge of a hazardous waste;

iii) A discharge of a material that becomes a hazardous waste when discharged; or

iv) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or

an explosive device, as determined by an explosives or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of Subparts C and D.

C) Any person that is covered by subsection (c)(11)(A) that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;

D) In the case of an explosives or munitions emergency response, if a federal, state, or local official acting within the scope of his or her official responsibilities or an explosives or munitions emergency response specialist determines that immediate removal of the material or waste is necessary to adequately protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters that do not have USEPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent material in a container, provided that these actions occur at the time that the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;

14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:

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

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

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

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

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

15) This subsection (c)(15) corresponds with 40 CFR 265.1(c)(15~~), which applies only to a facility outside Illinois.~~ This statement maintains structural consistency with the corresponding USEPA rule; or

16) A reverse distributor accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in 35 Ill. Adm. Code 726.600. A reverse distributor is subject to regulation under Subpart P of 35 Ill. Adm. Code 726 ~~in lieu~~instead of this Part for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

d) The following hazardous wastes must not be managed at facilities subject to regulation under this Part: USEPA hazardous waste numbers F020, F021, F022, F023, F026, or F027, unless the following conditions are ~~fulfilled~~met:

1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

2) The waste is stored in tanks or containers;

3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of Subpart L;

4) The waste is burned in incinerators that are certified under the standards and procedures in Section 725.452; or

5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified under the standards and procedures in Section 725.483.

e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.

f) 35 Ill. Adm. Code 726.505 identifies when the requirements of this Part apply to the storage of military munitions classified as solid waste under 35 Ill. Adm. Code 726.302. The treatment and disposal of hazardous waste military munitions are

subject to the applicable permitting, procedural, and technical standards in 35 Ill. Adm. Code 702, 703, 705, 720 through 728, and 738.

g) Other bodies of regulations may apply to a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (potentially infectious medical waste), depending on the provisions of those other regulations.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 725.172 Manifest Discrepancies

a) "~~"~~Manifest discrepancies"~~"~~ are defined as any one of the following:

1) Significant differences (as defined by subsection (b)~~)~~ between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

3) Container residues, which are residues that exceed the quantity limits for empty containers ~~set forth~~ in 35 Ill. Adm. Code 721.107(b) and 726.607.

b) "~~"~~Significant differences in quantity"~~"~~ are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "~~"~~Significant differences in type"~~"~~ are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.

c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

d) Rejection of Hazardous Waste

1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers ~~set forth~~ in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator before sending~~prior to forwarding~~ the waste to another facility that can

manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.

2) While the facility owner or operator is making arrangements for sending~~forwarding~~ rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or the facility owner or operator must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under subsection (e) or (f).

e) Except as provided in subsection (e)(7), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility owner or operator ~~is required to~~must prepare a new manifest in ~~accordance~~ compliance with 35 Ill. Adm. Code 722.120(a) and the instructions ~~set forth~~ in subsections (e)(1) through (e)(6):

1) The facility owner or operator must write the generator's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then the facility owner or operator must write the generator's site address in the designated space in Item 5.

2) The facility owner or operator must write the name of the alternate designated facility and the facility's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) The facility owner or operator must sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has

been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

7) For full load rejections that are made while the transporter remains present at the facility, the facility owner or operator may send ~~forward~~ the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility owner or operator must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (e)(1) through (e)(6).

f) Except as provided in subsection (f)(7), for rejected wastes and residues that must be sent back to the generator, the facility owner or operator ~~is required to~~must prepare a new manifest in compliance ~~accordance~~ with 35 Ill. Adm. Code 722.120(a) and the instructions ~~set forth~~ in subsections (f)(1) through (f)(6) and (f)(8):

1) The facility owner or operator must write the facility's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then the facility owner or operator must write the facility's site address in the designated space for Item 5 of the new manifest.

2) The facility owner or operator must write the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.

3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).

5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.

6) The facility owner or operator must sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been

properly packaged, marked and labeled and is in proper condition for transportation.

7) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility owner or operator must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (f)(1) through (f)(6) and (f)(8).

8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility owner or operator must also comply with the exception reporting requirements in Section 722.142(a).

g) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers ~~set forth~~ in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility owner or operator must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter and generator that received copies before ~~prior to their~~ being amended.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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

SUBPART A: GENERAL

Section

SUBPART C: RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

SUBPART D: HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

SUBPART E: USED OIL BURNED FOR ENERGY RECOVERY

SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY

SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED

SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

SUBPART M: MILITARY MUNITIONS

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

SUBPART P: HAZARDOUS WASTE PHARMACEUTICALS

726.APPENDIX L	Nickel or Chromium-Bearing Materials that May Be Processed in Exempt Nickel-Chromium Recovery Furnaces
726.APPENDIX M	Mercury-Bearing Wastes that May Be Processed in Exempt Mercury Recovery Units
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; amended in R21-13 at 48 Ill. Reg. _____, effective _____; amended in R24-12 at 48 Ill. Reg. _____, effective _____.

SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

Section 726.200 Applicability

a) ~~The regulations of this~~ Subpart H applies~~y~~ 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~~compliance 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. The ~~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 the ~~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, 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 in compliance with ~~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 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 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^3" 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)(*1*)(*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 48 Ill. Reg. _____, effective _____)

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 if ~~provided that~~ the following conditions are ~~fulfilled~~met:

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 exemption 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 48 Ill. Reg. _____, effective _____)

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 instead ~~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~~for 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, instead ~~in lieu~~ of 35 Ill. Adm. Code 722 through 725, ~~with respect to~~for 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~~ according to ~~ance with~~ a recall strategy that has been approved by the Food and Drug Administration in ~~accordance with~~under 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~~ according to~~ance with~~ a recall corrective action plan that has been accepted by the Consumer Product Safety Commission ~~in accordance with~~under 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~~ under~~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 48 Ill. Reg. _____, effective _____)

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~~meet 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 if~~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) (i.e. metal-bearing waste codes listed in 35 Ill. Adm. Code 728.Appendix K, unless one or more of the criteria in 35 Ill. Adm. code 728.103(c)(1) through (c)(6) are met), or because it is prohibited from being lab packed due to 35 Ill. Adm. Code 728.Table C) must be accumulated in separate containers, and labeled ~~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 compliance ~~accordance~~ with the manifest discrepancy provisions of 35 Ill. Adm. Code 724.172 or 725.172, may accumulate the ~~returned~~ rejected non-creditable hazardous waste pharmaceuticals on-site for up to an additional 90 days if ~~provided~~ the rejected or returned shipment is managed in compliance ~~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 receiving ~~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~~compliance 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~~ forwarded 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 compliance ~~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 compliance ~~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, if~~provided~~ the receiving healthcare facility ~~fulfills~~ meets 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: Amended at 48 Ill. Reg. _____, effective _____)

Section 726.603 Standards for Potentially Creditable Hazardous Waste Pharmaceuticals

a) Hazardous Waste Determination for Potentially Creditable Pharmaceuticals. A healthcare facility that generates a solid waste that is a potentially creditable pharmaceutical must determine whether the potentially creditable pharmaceutical ~~i~~s a potentially creditable hazardous waste pharmaceutical (i.e., it is a listed hazardous waste in Subpart D of 35 Ill. Adm. Code 721 or exhibits a characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721). A healthcare facility may choose to manage its potentially creditable non-hazardous waste pharmaceuticals as potentially creditable hazardous waste pharmaceuticals under ~~this~~ Subpart P.

b) Accepting Potentially Creditable Hazardous Waste Pharmaceuticals from an Off-Site Healthcare Facility That Is a VSQG. A healthcare facility may accept potentially 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 interim status, if~~provided~~ the receiving healthcare facility ~~fulfills~~ meets 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 potentially creditable hazardous waste pharmaceuticals off site ("control", for ~~the purposes of~~ this section, means the power to direct the policies of the healthcare facility whether by ownership of stock, voting rights, or otherwise, except that contractors who operate healthcare facilities on behalf of a different person as defined in 35 Ill. Adm. Code 720.110 are not ~~deemed~~considered to "control" the healthcare facilities), or the sending healthcare facility has a contractual or other documented business relationship in which the receiving healthcare facility supplies pharmaceuticals to the VSQG healthcare facility;

2) The receiving healthcare facility is operating under ~~this~~ Subpart P for the management of its potentially creditable hazardous waste pharmaceuticals;

3) The receiving healthcare facility manages the potentially 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 potentially creditable hazardous waste pharmaceuticals shipments it receives from off site for three years from the date that the shipment is received.

c) Prohibition. A healthcare facility is prohibited from sending hazardous wastes other than potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

d) Annual Reporting by Healthcare Facilities. A healthcare facility is not subject to annual reporting requirements under 35 Ill. Adm. Code 722.141 ~~with respect to~~for potentially creditable hazardous waste pharmaceuticals managed under ~~this~~ Subpart P.

e) Recordkeeping by Healthcare Facilities

1) A healthcare facility initiating a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor must keep the following records (paper or electronic) for each shipment for three years after the date of shipment:

A) The confirmation of delivery; and

B) The shipping papers prepared in compliance~~accordance~~ with subpart C of 49 CFR 172, incorporated by reference in 35 Ill. Adm. Code 720.111, if applicable.

2) 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.

3) All records must be readily available upon request by a USEPA or Agency inspector.

f) Response to Spills of Potentially Creditable Hazardous Waste Pharmaceuticals at Healthcare Facilities. A healthcare facility must immediately contain all spills of potentially creditable hazardous waste pharmaceuticals and manage the spill clean-up materials as non-creditable hazardous waste pharmaceuticals in compliance~~accordance~~ with ~~this~~ Subpart P.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 726.604 Very Small Quantity Generators

a) Potentially Creditable Hazardous Waste Pharmaceuticals. A healthcare facility that is a VSQG for both hazardous waste pharmaceuticals and non-pharmaceutical

hazardous waste may send its potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

b) Off-Site Collection of Hazardous Waste Pharmaceuticals Generated by a Healthcare Facility That Is a VSQG. A healthcare facility that is a VSQG for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its hazardous waste pharmaceuticals off-site to another generator, ~~healthcare facility,~~ if ~~provided either of the following is true~~:

1) The receiving healthcare facility meets the conditions in Sections 726.602(l) and 726.603(b), as applicable; or

2) The VSQG healthcare facility meets the conditions in 35 Ill. Adm. Code 722.114(a)(5)(H) and the receiving LQG meets the conditions in 35 Ill. Adm. Code 722.117(f).

c) Long-Term Care Facilities That Are VSQGs. A long-term care facility that is a VSQG for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may dispose of its hazardous waste pharmaceuticals (excluding contaminated personal protective equipment or clean-up materials) in an on-site collection receptacle of a "collector", as defined in 21 CFR 1300.01, incorporated by reference in 35 Ill. Adm. Code 720.111, that is registered with the federal Drug Enforcement Administration (DEA) if~~provided~~ the contents are collected, stored, transported, destroyed, and disposed of in compliance with all applicable DEA regulations for controlled substances in 21 CFR 1300 through 1317, incorporated by reference in 35 Ill. Adm. Code 720.111.

BOARD NOTE: Corresponding 40 CFR 266.504(c) allows on-site disposal into a collection receptacle of "an authorized collector (as defined by the Drug Enforcement Administration) that is registered with the Drug Enforcement Administration". The DEA rules for management of controlled substances are in 21 CFR 1300 through 1317. The DEA registration rules are in 21 CFR 1301.

d) Long-Term Care Facilities with 20 Beds or Fewer. A long-term care facility with 20 beds or fewer is presumed to be a VSQG subject to 35 Ill. Adm. Code 722.114 for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste and not subject to ~~this~~ Subpart P, except for Sections 726.605 and 726.607 and the other optional provisions of this Section. The Agency has the responsibility to demonstrate that a long-term care facility with 20 beds or fewer generates quantities of hazardous waste that are in excess of those applicable to a VSQG, as defined in 35 Ill. Adm. Code 720.110. A long-term care facility with more than 20 beds that operates as a VSQG under 35 Ill. Adm. Code 722.114 must demonstrate that it generates quantities of hazardous waste that are within those applicable to a VSQG, as defined by 35 Ill. Adm. Code 720.110.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 726.605 Prohibition Against Sewering

All healthcare facilities, including VSQGs operating under 35 Ill. Adm. Code 722.114 instead ~~in lieu~~ of ~~this~~ Subpart P, and reverse distributors are prohibited from discharging hazardous waste pharmaceuticals to a sewer system that passes through to a publicly-owned treatment works. Healthcare facilities and reverse distributors remain subject to the prohibitions in 40 CFR 403.5(b)~~(1)~~, incorporated by reference in 35 Ill. Adm. Code 720.111.

BOARD NOTE: This Section negates the exclusion from definition as solid waste in 35 Ill. Adm. Code 721.104(a)(1)(B) for mixtures of waste and domestic sewage as to VSQGs and reverse distributors.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 726.606 Conditional Exemptions for Controlled Substances and Household Hazardous Waste Pharmaceuticals

a) Conditional Exemptions. If ~~Provided~~ the conditions of subsection (b) are met, the following are exempt from 35 Ill. Adm. Code 722 through 733:

1) Hazardous waste pharmaceuticals that are also listed on a schedule of controlled substances by DEA in 21 CFR 1308.11 through 1308.15, incorporated by reference in 35 Ill. Adm. Code 720.111; and

2) Household waste pharmaceuticals that are collected ~~in a take-back event or program, including those that are collected~~ by a "collector", as defined in 21 CFR 1300.01, incorporated by reference in 35 Ill. Adm. Code 720.111, that is registered with DEA and that commingles the household waste pharmaceuticals with controlled substances from an "ultimate user", as defined in 21 USC 802(27), incorporated by reference in 35 Ill. Adm. Code 720.111.

BOARD NOTE: Corresponding 40 CFR 266.506(a)(2) exempts from regulation as hazardous waste hazardous waste pharmaceuticals collected in a take-back event or program by "an authorized collector (as defined by the Drug Enforcement Administration) that is registered with the Drug Enforcement Administration". DEA rules define "collector" in 21 CFR 130001. The DEA registration rules are in 21 CFR 1301.

b) Conditions for Exemption. The following conditions apply to hazardous waste pharmaceuticals:

1) The hazardous waste pharmaceuticals must be managed in compliance with the sewer prohibition of Section 726.605;

2) The hazardous waste pharmaceuticals must be collected, stored, transported, and disposed of in compliance with all applicable DEA regulations for controlled substances in 21 CFR 1300 through 1317, incorporated by reference in 35 Ill. Adm. Code 720.111; and

3) The hazardous waste pharmaceuticals must be rendered "non-retrievable", as defined in 21 CFR 1300.05, under 21 CFR 1317.90 and 1317.95, each incorporated by reference in 35 Ill. Adm. Code 720.111, by a DEA registrant using a method that complies with this DEA standard of destruction or combusted at one of the following facilities:

A) A permitted large municipal waste combustor, subject to the standards of subpart FFF of 40 CFR 62 or applicable state plan for existing large municipal waste combustors, or subpart Eb of 40 CFR 60 for new large municipal waste combustors;

B) A permitted small municipal waste combustor, subject to subpart JJJ of 40 CFR 62 or applicable state plan for existing small municipal waste combustors, or subpart AAAA of 40 CFR 60 for new small municipal waste combustors;

C) A permitted hospital, medical and infectious waste incinerator, subject to subpart HHH of 40 CFR 62 or applicable state plan for existing hospital, medical, and infectious waste incinerators, or subpart Ec of 40 CFR 60 for new hospital, medical, and infectious waste incinerators; ~~or~~

D) A permitted commercial and industrial solid waste incinerator, subject to subpart III of 40 CFR 62 or applicable state plan for existing commercial and industrial solid waste incinerators, or subpart CCCC of 40 CFR 60 for new commercial and industrial solid waste incinerators; or

E) A permitted hazardous waste combustor subject to subpart EEE of 40 CFR 63.

BOARD NOTE: Corresponding 40 CFR 266.506(b)(3) allows destruction by a method deemed in writing by DEA to render the pharmaceutical "non-retrievable". USEPA was not aware of any DEA methods approvals when adopting the rule. USEPA intended that destruction comply with applicable DEA requirements. 84 Fed. Reg. 5816, 5897 (Feb. 22, 2019); 21 CFR 1317.90(a) (2019); 79 Fed. Reg. 53520, 53541 (Sep. 9, 2014). The entity performing the destruction must be a DEA registrant. Management of controlled substances is authorized within the scope of DEA registration. 21 USC 822(b) (2018).

(Source: Amended at 48 Ill. Reg. _____, effective _____)

Section 726.607 Residues in Empty Containers

a) Stock, Dispensing and Unit-Dose Containers. A stock bottle, dispensing bottle, vial, or ampule (not to exceed 1 liter or 10,000 pills); or a unit-dose container (e.g., a unit-dose packet, cup, wrapper, blister pack, delivery device, etc.) is considered empty and the residues are not regulated as hazardous waste, ifprovided the pharmaceuticals have been removed from the stock bottle, dispensing bottle, vial, ampule, or unit-dose container using the practices commonly employed to remove materials from that type of container.

b) Syringes. A syringe is considered empty and the residues are not regulated as hazardous waste under this Subpart P, ifprovided the contents have been removed by fully depressing the plunger of the syringe. At healthcare facilities operating under Subpart P, ifIf a syringe is not empty, the syringe must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under this Subpart P and any applicable federal, State, and local requirements for sharps containers and medical waste.

c) Intravenous (IV) Bags. An IV bag is considered empty and the residues are not regulated as hazardous waste, ifprovided the pharmaceuticals in the IV bag have been fully administered to a patient, or if the IV bag held non-acute hazardous waste pharmaceuticals and is emptied as defined in 35 Ill. Adm. Code 721.107(b)(1). At healthcare facilities operating under Subpart P, ifIf an IV bag is not empty, the IV bag must be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under this Subpart P, unless the IV bag held non-acute hazardous waste pharmaceuticals and is empty, as defined in 35 Ill. Adm. Code 721.107(b)(1).

d) Other Containers, Including Delivery Devices. At healthcare facilities operating under Subpart P, hazardousHazardous waste pharmaceuticals remaining in all other types of unused, partially administered, or fully administered containers must be managed as non-creditable hazardous waste pharmaceuticals under this Subpart P, unless the container held non-acute hazardous waste pharmaceuticals and is empty, as defined in 35 Ill. Adm. Code 721.107(b)(1) or (b)(2). This includes residues in inhalers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

(Source: Amended at 48 Ill. Reg. _____, effective _____)

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 (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 compliance~~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(i.e., hazardous

waste codes), except D004, D005, D006, D007, D008, D010, and D011, if applicable. A nationally recognized electronic system, such as bar coding or radio frequency identification tag, may be used to identify the USEPA hazardous waste numbers(i.e., hazardous waste codes); ~~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 USEPA hazardous waste numbers (i.e., hazardous waste codes) in Item 13 of USEPA Form 8700-2212~~12~~.

B) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals must write the word "PHRM" or "PHARMS" in Item 13 of USEPA Form 8700-2212~~12~~. A healthcare facility may also include the applicable USEPA hazardous waste numbers (i.e., hazardous waste codes) in Item 13 of USEPA Form 8700-22.

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: Amended at 48 Ill. Reg. _____, effective _____)

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, ifprovided 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, 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 compliance~~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 compliance~~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 compliance~~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, if~~provided that~~ the reverse distributor manages the unexpired pharmaceuticals in compliance ~~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 such as a fence; or

iii) A means to control entry, 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, 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~~ compliance 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 (or other entity) 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~~ meet 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~~ meet subsection (c) for evaluated hazardous waste pharmaceuticals.

3) A reverse distributor must ship potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor in compliance~~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 compliance~~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) (i.e.~~e.g.~~, metal-bearing waste codes listed in 35 Ill. Adm. Code 728.Appendix K unless one or more criteria in 728.103(c)(1) through (6) are met), or because it is prohibited from being lab packed due to 35 Ill. Adm. Code 728.Table C) ~~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), except as provided in 35 Ill. Adm. Code 726.608(a)(1)(C)(iii). A nationally

recognized electronic system, such as bar coding or radio frequency identification tag , may be used to identify the USEPA hazardous waste numbers (i.e., hazardous waste codes).

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 compliance~~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 compliance~~accordance~~ with the manifest discrepancy provisions of 35 Ill. Adm. Code 724.172 or 725.172, may accumulate the rejected~~returned~~ evaluated hazardous waste pharmaceuticals on site for up to an additional 90 days in the on-site accumulation area, if~~provided~~ the rejected or returned shipment is managed in compliance~~accordance~~ with subsections (a) and (c). After receiving ~~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 receiving ~~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 receiving ~~receipt of~~ the rejected shipment, transport or offer for transport the returned shipment of evaluated hazardous waste pharmaceuticals in compliance~~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 compliance~~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 compliance~~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 compliance~~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: Amended at 48 Ill. Reg. _____, effective _____)