BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
STANDARDS FOR UNIVERSAL	)	R _____
WASTE MANAGEMENT	)	(Rulemaking)
(35 IL. ADM. CODE PARTS 703, 720,	)	
721, 724, 725, 728, and 733)	)	

MOTION FOR ACCEPTANCE

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA") and moves, pursuant to 35 Ill. Adm. Code 102.200 and 102.202, that the Board accept for hearing the Illinois EPA's proposal for 35 Ill. Adm. Code Parts 703, 720, 721, 724, 725, 728, and 733. This proposal includes: 1) the proposed regulations; 2) a Statement of Reasons, Synopsis of Testimony, and Statement Regarding Material Incorporated by Reference; 3) proof of service upon all persons required to be served pursuant to 35 Ill. Adm. Code 102.422; 4) an electronic version of the proposed regulations; and 5) an appearance for the attorneys representing the Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

/s/ Renee Cipriano bk
By:_____
Renee Cipriano
Director

DATED: 10/19/04

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
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STANDARDS FOR UNIVERSAL	)	R _____
WASTE MANAGEMENT	)	(Rulemaking)
(35 ILL. ADM. CODE PARTS 703,	)	
720, 721, 724, 725, 728, and 733)	)	

STATEMENT OF REASONS AND SYNOPSIS OF TESTIMONY

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA") and, pursuant to 35 Ill. Adm. Code 102.202, submits its Statement of Reasons and Synopsis of Testimony for its proposal of amendments in the above referenced proceeding.

I. STATEMENT OF REASONS

A. Facts in Support, Purpose and Effect

1. Background

The Illinois EPA submits this proposal pursuant to Public Act 93-964 ("P.A. 93-964"), which, *inter alia*, (1) designates mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste, and (2) requires the Illinois EPA to propose amendments to the Board's rules that reflect this designation. See 415 ILCS 5/22.23b(e) (effective August 20, 2004). The Public Act also requires the Board to adopt rules within 180 days after its receipt of this proposal. Id. A copy of P.A. 93-964 is included as Attachment A to this document.

The amendments in this proposal are based upon amendments to the federal universal waste rules that were proposed by the United States Environmental Protection Agency ("USEPA") in 67 Fed. Reg. 40507 (June 12, 2002). The federal amendments designate devices

that meet the definition of "mercury-containing equipment" as universal waste and require such equipment to be managed in accordance with the requirements that currently apply to thermostats. A copy of the USEPA's proposal is included as Attachment B to this document.

This proposal is based upon the proposed amendments to the federal universal waste rules because the Board's universal waste rules are based upon the federal universal waste rules, and because P.A. 93-964 requires the Board to adopt rules equivalent to federal rules once federal rules are adopted. See 415 ILCS 5/22.23b(e) (effective August 20, 2004). Therefore, if the Board adopts rules equivalent to the proposed federal rules now, there will be little, if any, change needed to conform the rules to the federal rules once federal rules are adopted.

There is one difference between the USEPA's proposal and this proposal that should be noted. In the USEPA's proposal the definition of "mercury-containing products" includes a wide array of items (e.g., thermometers, manometers, barometers, relay switches, mercury regulators, meters, pressure relief gauges, water treatment pressure gauges, and sprinkler system contacts). 67 Fed. Reg. 40517 (June 12, 2002). In this proposal, however, the term "mercury-containing equipment" is limited to the specific products designated as universal waste in P.A. 93-964, namely "mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture." See 415 ILCS 5/22.23b(e) (effective August 20, 2004).

The amendments in this proposal, like the amendments in the USEPA's proposal, remove products meeting the definition of "mercury-containing equipment" from the rules governing the management of hazardous waste and instead make them subject to the rules governing the management of universal waste. The universal waste rules create a streamlined framework for the special collection and management of certain widely generated wastes. This special

collection and management is intended to remove the wastes from the municipal waste stream and minimize the disposal of their hazardous constituents in municipal landfills.

Universal waste management is material-specific. It applies only to the specific wastes identified in the universal waste rules. The universal waste rules are structured in a way that allows new wastes to be added with minimal difficulty. Currently, the Board's universal waste rules apply to batteries, pesticides, thermostats, and lamps (e.g, fluorescent and neon lights). See 35 Ill. Adm. Code 733.101. The proposed amendments add "mercury-containing equipment" to this list and make such equipment subject to the requirements that currently apply to thermostats, which also contain mercury.

Adding mercury-containing equipment to the universal waste program reclassifies many sites generating such waste as handlers of universal waste rather than individual hazardous waste generators. This reclassification eases the regulatory burden on these generators, and facilitates the proper disposal of the waste. For example, it eliminates the need for a hazardous waste manifest. Because a hazardous waste manifest is no longer required, transporting the waste to central consolidation points should be less difficult. Collection of the waste at central consolidation points should make the recycling and proper disposal of the waste much easier. This, in turn, should make improper disposal of the waste in municipal landfills or incinerators less likely.

Including mercury-containing equipment in the universal waste program should also decrease the likelihood that handlers will try to separate the hazardous and non-hazardous portions of the waste. Because the requirements of the universal waste rule are relatively streamlined, and because sampling mercury-containing devices can be difficult, handlers will find it easier to manage the entire wastestream as universal waste.

To avoid repetition in this document, please refer to pages 40516 through 40520 of the USEPA's proposal in Attachment A for additional discussion of the addition of mercury-containing products to the universal waste rules. The amendments proposed to the federal rules are set forth on pages 40525. Please note that the USEPA's proposal also includes amendments involving cathode ray tubes. None of the USEPA's proposed changes involving cathode ray tubes are included in the Illinois EPA's proposal.

The Illinois EPA is not aware of any objections to the addition of mercury-containing equipment to the Board's universal waste rules as required by P.A. 93-964.

2. Regulatory Development

The Illinois EPA had only 60 days from the enactment of P.A. 93-964 to submit this proposal to the Board. Therefore, it was unable to undertake the public outreach it normally conducts prior to submitting proposed amendments to the Board. The regulatory development of this proposal consisted mainly of reviewing the USEPA's proposed amendments to the federal universal waste regulations.

3. Description of the Proposed Rules

Part 703 RCRA Permit Program

Section 703.123 – Specific Exclusions from Permit Program. This Section sets forth those persons not required to obtain a RCRA permit. Handlers and transporters of universal waste subject to the universal waste rules are included in the list of persons not required to obtain a RCRA permit. See 35 Ill. Adm. Code 703.123(h). The proposed amendment to this Section adds mercury-containing equipment to the list of universal wastes referenced in this Section. See proposed 35 Ill. Adm. Code 703.123(h)(5).

Part 720 Hazardous Waste Management System

Section 720.110 – Definitions. This Section provides the definitions applicable to Parts 720 through 726, 728, 733, and 739. The proposed amendment to this Section adds a definition for the term "mercury-containing equipment," and amends the definition of "universal waste" to include mercury-containing equipment.

Part 721 Identification and Listing of Hazardous Waste

Section 721.109 – Requirements for Universal Waste. This Section lists the types of waste that are regulated under the universal waste rules. The proposed amendment adds mercury-containing equipment to the list.

Part 724 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Section 724.101 – Purpose, Scope, and Applicability. Subsection (g) of this Section sets forth exemptions to Part 724. Subsection (g)(11) exempts universal waste handlers and transporters. The proposed amendments to this Section add mercury-containing equipment to the list of universal wastes referenced in subsection (g)(11).

Part 725 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

Section 725.101 – Purpose, Scope, and Applicability. Subsection (c) of this Section sets forth exemptions to Part 725. Subsection (c)(14) exempts universal waste handlers and transporters. The proposed amendments to this Section add mercury-containing equipment to the list of universal wastes referenced in subsection (c)(14).

Part 728 Land Disposal Restrictions

Section 728.101– Purpose, Scope, and Applicability. Subsection (f) of this Section exempts universal waste handlers and transporters from Section 728.107 (Testing, Tracking, and

Recordkeeping Requirements for Generators, Treaters, and Disposal Facilities) and Section 728.150 (Prohibitions on Storage of Restricted Wastes) for universal wastes. The proposed amendments to this Section add mercury-containing equipment to the list of universal wastes referenced in subsection (f).

Part 733 Standards for Universal Waste Management

Subpart A: General

Section 733.101– Scope. This Section enumerates the types of waste covered by Part 733. The proposed amendments add mercury-containing equipment to this list of wastes.

Section 733.106 – Applicability – Mercury-Containing Equipment. The proposed amendments add this new Section to address the applicability of the universal waste rules to mercury-containing equipment. Subsection (a) of this Section states that the requirements of Part 733 apply to persons managing mercury-containing equipment as described in Section 733.109. Subsection (b) identifies mercury-containing equipment that is not subject to the universal waste rules (i.e., mercury-containing equipment that is not yet a waste or that is not a hazardous waste). Subsection (c) describes when used and unused mercury-containing equipment becomes a waste.

Section 733.109 – Definitions. This Section contains definitions for the universal waste rules. The proposed amendments make the following changes to this Section:

a. "Large quantity handler of universal waste." This definition is amended to include mercury-containing equipment in the list of universal wastes.

b. "Mercury-containing equipment." This is a new term that is defined as "mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture." This definition is based

upon the items designated as universal waste in P.A. 93-964. See 415 ILCS 5/22.23b(e) (effective August 20, 2004).

c. "Mercury relay." This is a new term that is defined as "a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays." This definition is identical to the statutory definition of "mercury relay" added to the Environmental Protection Act ("Act") by P.A. 93-964. See 415 ILCS 5/3.283 (effective August 20, 2004).

d. "Mercury switch." This is a new term that is defined as "a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors." This definition is identical to the statutory definition of "mercury switch" added to the Act by P.A. 93-964. See 415 ILCS 5/3.284 (effective August 20, 2004).

e. "Small quantity handler of universal waste." This definition is amended to include mercury-containing equipment in the list of universal wastes.

f. "Universal waste." This definition is amended to include mercury-containing equipment in the list of universal wastes.

Subpart B: Standards for Small Quantity Handlers

Section 733.113 – Waste Management. This Section provides management requirements for each type of universal waste. Subsection (c) sets forth the management requirements for thermostats. The proposed amendments add mercury-containing equipment to subsection (c), thereby making the management standards for thermostats applicable to mercury-containing equipment as well.

Section 733.114 – Labeling and Marking. This Section sets forth the requirements a small quantity handler of universal waste must follow to identify the various types of universal waste. The proposed amendment to this Section adds subsection (f), which contains labeling and marking requirements for mercury-containing equipment.

Subpart C: Standards for Large Quantity Handlers

Section 733.132 – Notification. This Section contains notification requirements imposed upon large quantity handlers of universal waste. Subsection (b) sets forth the information notifications must contain. Subsection (b)(4) requires handlers to list the types of universal waste handled. The proposed amendment to this Section adds mercury-containing equipment to this list.

Section 733.133 – Waste Management. This Section provides management requirements for each type of universal waste. Subsection (c) sets forth the management requirements for thermostats. The proposed amendments to this Section add mercury-containing equipment to subsection (c), thereby making the management standards for thermostats applicable to mercury-containing equipment as well.

Section 733.134 – Labeling and Marking. This Section sets forth the requirements a large quantity handler of universal waste must follow to identify the various types of universal

waste. The proposed amendment to this Section adds subsection (f), which contains labeling and marking requirements for mercury-containing equipment.

B. Technical feasibility and Economic Reasonableness

1. Technical Feasibility

The Illinois EPA believes this proposal does not raise any issues of technical feasibility.

2. Economic Reasonableness

The Illinois EPA believes this proposal will make the management of mercury-containing equipment more economical because such waste will be easier to manage as a universal waste instead of as a hazardous waste. For example, generators of such waste will no longer be considered handlers of hazardous waste, manifests will no longer be required for the transportation of such waste, and RCRA permits will no longer be needed to accumulate larger amounts of such waste at central consolidation points.

II. SYNOPSIS OF TESTIMONY

The Illinois EPA plans to provide the following witnesses at hearing: Steve Nightingale, Manager of the Illinois EPA's RCRA Permit Unit, and Mark Crites, a permit writer in the RCRA Permit Unit. The witnesses will provide general testimony on the proposed amendments including, but not limited to, the reasons for and the effects of adding mercury-containing equipment to the Board's universal waste rules. The Illinois EPA also plans to have Kevin Greene, Manager of the Illinois EPA's Office of Pollution Prevention, available at hearing to answer general questions regarding the designation of mercury-containing products as a universal waste.

The written testimony of witnesses will be submitted prior to hearing in accordance with the Board's procedural rules. The Illinois EPA respectfully requests that the Board allow Illinois

EPA witnesses to present their oral testimony in panel form rather than calling each individually. A panel format should streamline the hearing process and has proved beneficial in past rulemakings.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

_____

Kyle Rominger
Assistant Counsel

DATED:_____
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721, 724, 725, 728, and 733)	)	

APPEARANCE

The undersigned hereby enter their appearance as attorneys on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

/s/ Kyle Rominger

Kyle Rominger
Assistant Counsel

/s/ Lindsay Evans

Lindsay Evans
Assistant Counsel

Dated: 10/19/04

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

PART 703
RCRA PERMIT PROGRAM

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703.121 RCRA Permits
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703.123 Specific Exclusions from Permit Program
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703.125 Reapplications
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703.141 Permits by Rule
703.150 Application by Existing HWM Facilities and Interim Status Qualifications
703.151 Application by New HWM Facilities
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703.154 Prohibitions During Interim Status
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703.157 Grounds for Termination of Interim Status
703.158 Permits for Less Than an Entire Facility
703.159 Closure by Removal
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703.188 Other Information
703.191 Public Participation: Pre-Application Public Notice and Meeting
703.192 Public Participation: Public Notice of Application
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703.200 Specific Part B Application Information
703.201 Containers
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703.210 Process Vents
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703.214 Post-Closure Care Permits

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703.221 Alternative Compliance with the Federal NESHAPS
703.222 Incinerator Conditions Prior to Trial Burn
703.223 Incinerator Conditions During Trial Burn
703.224 Incinerator Conditions After Trial Burn
703.225 Trial Burns for Existing Incinerators
703.230 Land Treatment Demonstration
703.231 Research, Development and Demonstration Permits
703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste
703.234 Remedial Action Plans

SUBPART F: PERMIT CONDITIONS OR DENIAL

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703.241 Establishing Permit Conditions
703.242 Noncompliance Pursuant to Emergency Permit
703.243 Monitoring
703.244 Notice of Planned Changes (Repealed)

703.245 Twenty-four Hour Reporting
703.246 Reporting Requirements
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703.271 Causes for Modification
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Appendix A Classification of Permit Modifications

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. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January

15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003.

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions from Permit Program

The following persons are among those that are not required to obtain a RCRA permit:

a) Generators that accumulate hazardous waste on-site for less than the time periods provided in 35 Ill. Adm. Code 722.134;

b) Farmers that dispose of hazardous waste pesticides from their own use as provided in 35 Ill. Adm. Code 722.170;

c) Persons that own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under this Part by 35 Ill. Adm. Code 721.104 or 721.105 (small generator exemption);

d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;

e) An owner or operator of an elementary neutralization unit or wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110;

f) A transporter that stores manifested shipments of hazardous waste in containers that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

g) A person who adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person who adds waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271, and 724.272 are complied with; and

h) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed in subsections (h)(1) through (h)(4) of this Section. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.

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

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

3) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~

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

5) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.124 Discharges of Hazardous Waste

a) A person is not required to obtain a RCRA permit for treatment or containment activities taken during immediate response to any of the following situations:

1) A discharge of a hazardous waste;

2) An imminent and substantial threat of a discharge of hazardous waste;

3) A discharge of a material that, when discharged, becomes a hazardous waste; or

4) 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 explosive or munitions emergency response specialist as defined in 35 Ill. Adm. Code 720.110.

b) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part for those activities.

c) In the case of an emergency response involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years after the date of the response that identify the following: the date of the response, the responsible persons responding, the type and description of material addressed, and the disposition of the material.

BOARD NOTE: Derived from 40 CFR 270.1(c)(3) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.125 Reapplications

Any HWM facility with an effective permit must submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Agency. (The Agency must not grant permission for applications to be submitted later than the expiration date of the existing permit.)

BOARD NOTE: Derived from 40 CFR 270.10(h) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.126 Initial Applications

Except as provided in Subpart C of this Part, no person may begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and received a finally effective RCRA permit.

BOARD NOTE: Derived from 40 CFR 270.10(f)(1) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.127 Federal Permits (Repealed)

(Source: Repealed at 8 Ill. Reg. 206, effective December 27, 1983)

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

Section 703.140 Purpose and Scope

a) The Sections of this Subpart C are divided into the following two groups:

1) Section 703.141, Permits by Rule; and

2) Sections 703.151 through 703.158, relating to interim status;

b) The interim status rules correspond to 40 CFR 270, Subpart G, which relates to interim status. Other portions of the federal rules may be found in Subpart B of this Part. The intent is to group the interim status rules so they can be more easily ignored by those to whom they do not apply, and so they can be conveniently repealed after the interim status period.

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.141 Permits by Rule

Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 705, the following must be deemed to have a RCRA permit if the conditions listed are met:

a) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel that accepts hazardous waste for ocean disposal, if the owner or operator does the following:

1) It has a permit for ocean dumping issued under 40 CFR 220, incorporated by reference in 35 Ill. Adm. Code 720.111;

2) It complies with the conditions of that permit; and

3) It complies with the following hazardous waste regulations, incorporated by reference in 35 Ill. Adm. Code 720.111:

A) 40 CFR 264.11, Identification number;

B) 40 CFR 264.71, Use of manifest system;

C) 40 CFR 264.72, Manifest discrepancies;

D) 40 CFR 264.73(a) and (b)(1), Operating record;

E) 40 CFR 264.75, Biennial report; and

F) 40 CFR 264.76, Unmanifested waste report;

b) Injection wells. The owner or operator of an underground injection well disposing of hazardous waste, if the owner or operator fulfills the following conditions:

1) It has a permit for underground injection issued under 35 Ill. Adm. Code 704; and

2) It complies with the conditions of that permit and the requirements of Subpart F of 35 Ill. Adm. Code 704 (requirements for wells managing hazardous waste); and

3) For UIC permits issued after November 8, 1984, the following:

A) It complies with 35 Ill. Adm. Code 724.201; and

B) Where the UIC well is the only unit at the facility that requires a RCRA permit, it complies with Section 703.187.

c) Publicly owned treatment works (POTW). The owner or operator of a POTW that accepts for treatment hazardous waste, if the owner or operator fulfills the following conditions:

1) It has an NPDES permit;

2) It complies with the conditions of that permit; and

3) It complies with the following regulations:

A) 35 Ill. Adm. Code 724.111, Identification number;

B) 35 Ill. Adm. Code 724.171, Use of manifest system;

C) 35 Ill. Adm. Code 724.172, Manifest discrepencies;

D) 35 Ill. Adm. Code 724.173(a) and (b)(1), Operating record;

E) 35 Ill. Adm. Code 724.175, Annual report;

F) 35 Ill. Adm. Code 724.176, Unmanifested waste report; and

G) For NPDES permits issued after November 8, 1984, 35 Ill. Adm. Code 724.201; and

4) If the waste meets all federal, it complies with State and local pretreatment requirements that would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.

BOARD NOTE: Illinois pretreatment requirements are codified in 35 Ill. Adm. Code 307 and 310.

BOARD NOTE: See 40 CFR 270.60 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.150 Application by Existing HWM Facilities and Interim Status Qualifications

a) The owner or operator of an existing HWM facility or of an HWM facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must submit Part A of the permit application to the Agency no later than the following times, whichever comes first:

1) Six months after the date of publication of regulations that first require the owner or operator to comply with standards in 35 Ill. Adm. Code 725 or 726; or

2) Thirty days after the date the owner or operator first becomes subject to the standards in 35 Ill. Adm. Code 725 or 726; or

3) For generators that generate greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and treat, store or dispose of these wastes on-site, by March 24, 1987.

b) In granting a variance under subsection (c) of this Section the Board will consider whether there has been substantial confusion as to whether the owner or operator of such facilities were required to file a Part A application and whether such confusion was attributable to ambiguities in 35 Ill. Adm. Code 720, 721, or 725.

c) The time for filing Part A of the permit application may be extended only by a Board Order entered pursuant to a variance petition.

d) The owner or operator of an existing HWM facility may be required to submit Part B of the permit application. The Agency will notify the owner or operator that a Part B application is required, and set a date for receipt of the application, not less than six months after the date the notice is sent. The owner or operator my voluntarily submit a Part B application for all or part of the HWM facility at any time. Notwithstanding the above, any owner or operator of an existing HWM facility must submit a Part B permit application in accordance with the dates specified in Section 703.157. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must submit a Part B application in accordance with the dates specified in Section 703.157.

e) Interim status may be terminated as provided in Section 703.157.

BOARD NOTE: Derived from 40 CFR 270.10(e) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.151 Application by New HWM Facilities

a) Except as provided in subsection (c) of this Section, no person may begin physical construction of a new HWM facility without having submitted Part A and Part B of the permit application and having received a finally effective RCRA permit;

b) An application for a permit for a new HWM facility (including both Part A and Part B) may be filed at any time after promulgation of standards in 35 Ill. Adm. Code 724 applicable to any TSD unit in the facility; Except as provided in

subsection (c) of this Section, all applications must be submitted to the Agency at least 180 days before physical construction is expected to commence;

c) Notwithstanding subsection (a) of this Section, a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the Administrator of USEPA under Section (6)(e) of the federal Toxic Substances Control Act (42 USC 9601 et seq.) and any person owning or operating such facility may, at any time after construction of operation of such facility has begun, file an application for a RCRA permit to incinerate hazardous waste authorizing such facility to incinerate waste identified or listed under 35 Ill. Adm. Code 721.

d) Such persons may continue physical construction of the HWM facility after the effective date of the standards applicable to it if the person submits Part B of the permit application on or before the effective date of such standards (or on some later date specified by the Agency). Such person must not operate the HWM facility without having received a finally effective RCRA permit.

BOARD NOTE: Derived from 40 CFR 270.10(f) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.152 Amended Part A Application

a) If any owner or operator of an HWM facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator must file an amended Part A application with the Agency, as follows:

1) No later than the effective date of revised regulations under 35 Ill. Adm. Code 721 listing or identifying additional hazardous wastes, if the facility is treating, storing, or disposing of any of those newly listed or identified wastes;

2) As necessary to comply with provisions of Section 703.155 for changes during interim status.

b) The owner or operator of a facility who fails to comply with the updating requirements of subsection (a) of this Section does not receive interim status as to the wastes not covered by duly filed Part A applications.

BOARD NOTE: Derived from 40 CFR 270.10(g) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.153 Qualifying for Interim Status

a) Any person who owns or operates an existing HWM facility or a facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must have interim status and must be treated as having been issued a permit to the extent he or she has:

1) Complied with the requirements of Section 3010(a) of the federal Resource Conservation and Recovery Act (42 USC 6930(a)) pertaining to notification of hazardous waste activity;

BOARD NOTE: Some existing facilities may not be required to file a notification under Section 3010(a) of the federal Resource Conservation and Recovery Act (42 USC 6930(a)). These facilities may qualify for interim status by meeting subsection (a)(2).

2) Complied with the requirements of Sections 703.150 and 703.152 governing submission of Part A applications;

b) Failure to qualify for interim status. If the Agency has reason to believe upon examination of a Part A application that it fails to meet the requirements of 35 Ill. Adm. Code 702.123 or 703.181, it must notify the owner or operator in writing of the apparent deficiency. Such notice must specify the grounds for the Agency's belief that the application is deficient. The owner or operator must have 30 days from receipt to respond to such a notification and to explain or cure the alleged deficiency in its Part A application. If, after such notification and opportunity for response, the Agency determines that the application is deficient it may take appropriate enforcement action.

c) Subsection (a) must not apply to any facility that has been previously denied a RCRA permit or if authority to operate the facility under the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) has been previously terminated.

BOARD NOTE: Derived from 40 CFR 270.70 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.154 Prohibitions During Interim Status

During the interim status period the facility must not do any of the following:

a) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

b) Employ processes not specified in Part A of the permit application; or

c) Exceed the design capacities specified in Part A of the permit application.

BOARD NOTE: Derived from 40 CFR 270.71(a) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.155 Changes During Interim Status

a) Except as provided in subsection (b), of this Section the owner or operator of an interim status facility may make the following changes at the facility:

1) Treatment, storage, or disposal of new hazardous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal;

2) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change) and the Agency approves the change because either of the following conditions exist:

A) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities; or

B) The change is necessary to comply with a federal, State, or local requirement, including 35 Ill. Adm. Code 725, 728, or 729;

3) Changes in the processes for the treatment, storage, or disposal of hazardous waste may be made at a facility or addition of processes if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for change) and the Agency approves the change because either of the following conditions exist:

   A) The change is necessary to prevent a threat to human health or the environment because of an emergency situation; or

   B) The change is necessary to comply with a federal, State, or local requirement, including 35 Ill. Adm. Code 725, 728, or 729;

4) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator must comply with the requirements of Subpart H of 35 Ill. Adm. Code 725 (financial requirements), until the new owner or operator has demonstrated to the Agency that it is complying with the requirements of that Subpart. The new owner or operator must demonstrate compliance with the financial assurance requirements within six months after the date of the change in the ownership or operational control of the facility. Upon demonstration to the Agency by the new owner or operator of compliance with the financial assurance requirements, the Agency must notify the old owner or operator in writing that the old owner or operator no longer needs to comply with Subpart H of 35 Ill. Adm. Code 725 as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility;

5) Changes made in accordance with an interim status corrective action order issued by: USEPA under Section 3008(h) of the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) or other federal authority; a court pursuant to a judicial action brought USEPA; a court pursuant to the Environmental Protection Act; or the Board. Changes under this subsection (a)(5) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility;

6) Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

b) Except as specifically allowed under this subsection (b), changes listed under subsection (a) of this Section must not be made if they amount to reconstruction of the HWM facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new HWM facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

1) Changes made solely for the purpose of complying with requirements of 35 Ill. Adm. Code 725.293 for tanks and ancillary equipment.

2) If necessary to comply with federal, State or local requirements, including 35 Ill. Adm. Code 725, 728, or 729, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the statutory standards of Section 35 Ill. Adm. Code 728.139.

3) Changes that are necessary to allow an owner or operator to continue handling newly listed or identified hazardous wastes that have been treated, stored or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

4) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

5) Changes necessary to comply with an interim status corrective action order issued by: USEPA under Section 3008(h) of the federal Resource Conservation and Recovery Act (42 USC 6930(a)) or other federal authority; a court pursuant to a judicial action brought by USEPA; a court pursuant to the Environmental Protection Act; or the Board. Changes under this subsection (b)(5) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

6) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed in 35 Ill. Adm. Code 728, provided that such changes are made solely for the purpose of complying with 35 Ill. Adm. Code 728.

7) Addition of newly regulated units under subsection (a)(6) of this Section.

8) Changes necessary to comply with the federal Clean Air Act (CAA) Maximum Achievable Control Technology (MACT) emissions standards of 40 CFR 63, Subpart EEE--National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.

BOARD NOTE: Derived from 40 CFR 270.72 (2002). The federal CAA MACT standards are directly implemented in Illinois pursuant to Section 39.5 of the Environmental Protection Act [415 ILCS 5/39.5].

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.156 Interim Status Standards

During interim status, an owner or operator must comply with the interim status standards of 35 Ill. Adm. Code 725.

BOARD NOTE: Derived from 40 CFR 270.71(b) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.157 Grounds for Termination of Interim Status

Interim status terminates when either of the following occurs:

a) Final administrative disposition is made of a permit application, except an application for a remedial action plan (RAP) under Subpart H of this Part; or

b) The owner or operator fails to furnish a requested Part B application on time, or to furnish the full information required by the Part B application, in which case the Agency must notify the owner and operator of the termination of interim status following the procedures for a notice of intent to deny a permit pursuant to 35 Ill. Adm. Code 705.

c) For an owner or operator of a land disposal facility that has been granted interim status prior to November 8, 1984, on November 8, 1985, unless the following conditions are fulfilled:

1) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

2) The owner or operator certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

d) For an owner or operator of a land disposal facility that is in existence on the effective date of statutory or regulatory amendments under the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) that render the facility subject to the requirement to have a RCRA permit and which is granted interim status, twelve months after the date on which the facility first becomes subject to such permit requirement, unless the owner or operator of such facility does as follows:

1) It submits a Part B application for a RCRA permit for such facility before the date 12 months after the date on which the facility first becomes subject to such permit requirement; and

2) It certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

e) For an owner or operator of any land disposal unit that is granted authority to operate under Section 703.155(a)(1), (a)(2), or (a)(3), on the day 12 months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable groundwater monitoring and financial responsibility requirements (Subparts F and H of 35 Ill. Adm. Code 725).

f) For an owner or operator of each incinerator facility that achieved interim status prior to November 8, 1984, on November 8, 1989, unless the owner or operator of the facility submits a Part B application for a RCRA permit for an incinerator facility by November 8, 1986.

g) For an owner or operator of any facility (other than a land disposal or an incinerator facility) that achieved interim status prior to November 8, 1984, on November 8, 1992, unless the owner or operator of the facility submits a Part B application for a RCRA permit for the facility by November 8, 1988.

BOARD NOTE: Derived from 40 CFR 270.10(e)(5) (2002) and 270.73 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.158 Permits for Less Than an Entire Facility

The Agency may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

BOARD NOTE: Derived from 40 CFR 270.1(c)(4) (1992).

(Source: Amended at 18 Ill. Reg. 18316, effective December 20, 1994)

Section 703.159 Closure by Removal

An owner or operator of a surface impoundment, a land treatment unit, or a waste pile that is closing by removal or decontamination under 35 Ill. Adm. Code 725 standards must obtain a post-closure permit, unless it demonstrates to the Agency that the closure met the standards for closure by removal or decontamination in 35 Ill. Adm. Code 724.328, 724.380(e), or 724.358, respectively. The demonstration may be made in the following ways:

a) If the owner or operator has submitted a Part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that 35 Ill. Adm. Code 724 closure by removal standards are met. If the Agency makes a tentative decision that the 35 Ill. Adm. Code 724 standards are met, the Agency will notify the public of this proposed decision, allow for public comment and reach a final determination according to the procedures in Section 703.160.

b) If the owner or operator has not submitted a Part B application for a post-closure permit, the owner or operator may petition the Agency for a determination that a post-closure permit is not required because the closure met the applicable 35 Ill. Adm. Code 724 standards.

1) The petition must include data demonstrating that closure by removal or decontamination standards were met.

2) The Agency must approve or deny the petition according to the procedures outlined in Section 703.160.

BOARD NOTE: Derived from 40 CFR 270.1(c)(5) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.160 Procedures for Closure Determination

a) If a facility owner or operator seeks an equivalency determination under Section 703.159, the Agency must provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner or operator within 30 days from the date of the notice. The Agency must also, in response to a request or at its own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the 35 Ill. Adm. Code 725 closure to a 35 Ill. Adm. Code 724 closure. 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 two notices may be combined.)

b) The Agency must determine whether the 35 Ill. Adm. Code 725 closure met the 35 Ill. Adm. Code 724 closure by removal or decontamination requirements within 90 days after receipt of the request or petition. If the Agency finds that the closure did not meet the applicable 35 Ill. Adm. Code 724 standards, it must provide the owner or operator with a written statement of the reasons why the closure failed to meet 35 Ill. Adm. Code 724 standards. The owner or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Agency must review any additional information submitted and make a final determination within 60 days.

c) If the Agency determines that the facility did not close in accordance with 35 Ill. Adm. Code 724 closure by removal standards, the facility is subject to post-closure permitting requirements.

BOARD NOTE: See 40 CFR 270.1(c)(6) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.161 Enforceable Document for Post-Closure Care

a) An owner or operator may obtain an enforceable document containing alternative requirements for post-closure care that imposes the requirements of 35 Ill. Adm. Code 725.221. “Enforceable document containing alternative requirements” or

"other enforceable document," as used in this Part and in 35 Ill. Adm. Code 724 and 725, means an order of the Board, an Agency-approved plan, or an order of a court of competent jurisdiction that meets the requirements of subsection (b) of this Section. An "enforceable document containing alternative requirements" or "other enforceable document," may also mean an order of USEPA (such as pursuant to section 3008(h) of RCRA, 42 USC 6928(h), or under section 106 of the federal Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9606).

BOARD NOTE: Derived from 40 CFR 270.1(c)(7) (2002).

b) Any alternative requirements issued under this Section or established to satisfy the requirements of 35 Ill. Adm. Code 724.190(f), 724.210(c), 724.240(d), 725.190(f), 725.210(c), or 725.240(d) must be embodied in a document that is enforceable and subject to appropriate compliance orders and civil penalties under Titles VIII and XII of the Act [415 ILCS 5].

BOARD NOTE: Derived from 40 CFR 271.16(e) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

SUBPART D: APPLICATIONS

Section 703.180 Applications in General

a) This Subpart D contains requirements for applications for RCRA permits. A "Part A" application is required of all facilities to obtain interim status. The "Part B" application is a prerequisite to an actual permit, and need be filed for an existing facility with interim status only when requested. New facilities must file Part A and Part B at the same time;

b) Subpart E of this Part contains requirements for applications for emergency permits, trial burn permits, and land treatment demonstration permits;

c) The application package must consist of the following:

1) Information required by 35 Ill. Adm. Code 702.123;

2) Part A (Section 703.181);

3) Part B, as follows:

A) General information (Section 703.183);

B) Facility location information (Section 703.184);

C) Groundwater protection information, if required (Section 703.185);

D) Specific information for each type of TSD unit, i.e. tanks, surface impoundments, landfills, etc. (Sections 703.200 et seq.);

E) Additional information to demonstrate compliance with 35 Ill. Adm. Code 724 (Section 703.183(t));

F) Information for trial burn permits and land treatment demonstrations (Subpart E of this Part).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.181 Contents of Part A

In addition to the information in 35 Ill. Adm. Code 702.123, Part A of the RCRA application must include the following information:

a) The latitude and longitude of the facility;

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

c) An indication of whether the facility is new or existing and whether it is a first or revised application;

d) For existing facilities, a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas;

e) For existing facilities, photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas;

f) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items;

g) A specification of the hazardous wastes listed or designated under 35 Ill. Adm. Code 721 to be treated, stored, or disposed of at the facility, an estimate of the quantity of such wastes to be treated, stored, or disposed of annually, and a general description of the processes to be used for such wastes.

h) For hazardous debris, a description of the debris categories and containment categories to be treated, stored, or disposed of at the facility.

BOARD NOTE: Derived from 40 CFR 270.13 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.182 Contents of Part B

Part B information requirements presented in Sections 703.183 et seq. reflect the standards promulgated in 35 Ill. Adm. Code 724. These information requirements are necessary in order for the Agency to determine compliance with the 35 Ill. Adm. Code 724 standards. If an owner or operator of a HWM facility can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the Agency may make allowance for submission of such information on a case by case basis. Information required in Part B must be submitted to the Agency and signed in accordance with requirements in 35 Ill. Adm. Code 702.126. Certain technical data, such as design drawings and specifications and engineering studies, must be certified by a registered professional engineer. For post-closure care permits, only the information specified in Section 703.214 is required in Part B of the permit application. Part B of the RCRA application includes the following:

a) General information (Section 703.183);

b) Facility location information (Section 703.184);

c) Groundwater protection information (Section 703.185);

d) Exposure information (Section 703.186); and

e) Specific information (Section 703.200 et seq.).

BOARD NOTE: Derived from 40 CFR 270.14(a) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.183 General Information

The following information is required in the Part B application for all HWM facilities, except as 35 Ill. Adm. Code 724.101 provides otherwise:

a) A general description of the facility;

b) Chemical and physical analyses of the hazardous wastes and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information that must be known to treat, store, or dispose of the wastes properly in accordance with 35 Ill. Adm. Code 724;

c) A copy of the waste analysis plan required by 35 Ill. Adm. Code 724.113(b) and, if applicable, 35 Ill. Adm. Code 724.113(c);

d) A description of the security procedures and equipment required by 35 Ill. Adm. Code 724.114, or a justification demonstrating the reasons for requesting a waiver of this requirement;

e) A copy of the general inspection schedule required by 35 Ill. Adm. Code 724.115(b). Include where applicable, as part of the inspection schedule, specific requirements in 35 Ill. Adm. Code 724.274, 724.293(i), 724.295, 724.326, 724.354, 724.373, 724.403, 724.702, 724.933, 724.952, 724.953, 724.958, 724.984, 724.985, 724.986, and 724.988;

f) A justification of any request for a waiver of the preparedness and prevention requirements of Subpart C of 35 Ill. Adm. Code 724;

g) A copy of the contingency plan required by Subpart D of 35 Ill. Adm. Code 724;

BOARD NOTE: Include, where applicable, as part of the contingency plan, specific requirements in 35 Ill. Adm. Code 724.200 and 724.327. Corresponding 40 CFR 270.14(b)(7) refers to the requirements of 40 CFR 264.255 (corresponding with 35 Ill. Adm. Code 724.355), marked “reserved” by USEPA.

h) A description of procedures, structures, or equipment used at the facility as follows:

1) To prevent hazards in unloading operations (for example, ramps, or special forklifts);

2) To prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, or trenches);

3) To prevent contamination of water supplies;

4) To mitigate effects of equipment failure and power outages;

5) To prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and

6) To prevent releases to the atmosphere;

i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes, as required to demonstrate compliance with 35 Ill. Adm. Code 724.117, including documentation demonstrating compliance with 35 Ill. Adm. Code 724.117(c);

j) A description of the area traffic pattern, the estimated traffic volume (number and types of vehicles), and area traffic control (for example, show turns across traffic lanes and stacking lanes, if appropriate); a description of access road surfacing and load bearing capacity; and the locations and types of traffic control signals;

k) Facility location information, as required by Section 703.184;

l) An outline of both the introductory and continuing training programs by the owner or operator to prepare persons to operate or maintain the HWM facility in a safe manner, as required to demonstrate compliance with 35 Ill. Adm. Code 724.116. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in 35 Ill. Adm. Code 724.116(a)(3);

m) A copy of the closure plan and, where applicable, the post-closure plan required by 35 Ill. Adm. Code 724.212, 724.218, and 724.297. Include, where applicable, as part of the plans, specific requirements in 35 Ill. Adm. Code 724.278, 724.297, 724.328, 724.358, 724.380, 724.410, 724.451, 724.701, and 724.703;

n) For hazardous waste disposal units that have been closed, documentation that notices required under 35 Ill. Adm. Code 724.219 have been filed;

o) The most recent closure cost estimate for the facility, prepared in accordance with 35 Ill. Adm. Code 724.242, and a copy of the documentation required to demonstrate financial assurance under 35 Ill. Adm. Code 724.243. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if it is later than the submission of the Part B permit application;

p) Where applicable, the most recent post-closure cost estimate for the facility, prepared in accordance with 35 Ill. Adm. Code 724.244, plus a copy of the documentation required to demonstrate financial assurance under 35 Ill. Adm. Code 724.245. For a new facility, a copy of the required documentation may be

submitted 60 days prior to the initial receipt of hazardous wastes, if it is later than the submission of the Part B permit application;

q) Where applicable, a copy of the insurance policy or other documentation that comprises compliance with the requirements of 35 Ill. Adm. Code 724.247. For a new facility, documentation showing the amount of insurance meeting the specification of 35 Ill. Adm. Code 724.247(a) and, if applicable, 35 Ill. Adm. Code 724.247(b) that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for an alternative level of required coverage for a new or existing facility may be submitted as specified in 35 Ill. Adm. Code 724.247(c);

r) This subsection corresponds with 40 CFR 270.14(b)(18), pertaining to state financial mechanisms that do not apply in Illinois. This statement maintains structural parity with the federal regulations;

s) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). An owner or operator of a HWM facility located in a mountainous area must use larger contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

1) Map scale and date;

2) 100-year floodplain area;

3) Surface waters including intermittent streams;

4) Surrounding land uses (e.g., residential, commercial, agricultural, recreational, etc.);

5) A wind rose (i.e., prevailing windspeed and direction);

6) Orientation of the map (north arrow);

7) Legal boundaries of the HWM facility site;

8) Access control (e.g., fences, gates, etc.);

9) Injection and withdrawal wells both on-site and off-site;

10) Buildings; treatment, storage, or disposal operations; or other structures (e.g., recreation areas, runoff control systems, access and internal roads, storm, sanitary and process sewage systems, loading and unloading areas, fire control facilities, etc.);

11) Barriers for drainage or flood control; and

12) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed of (include equipment cleanup areas);

BOARD NOTE: For large HWM facilities, the Agency must allow the use of other scales on a case-by-case basis.

t) Applicants must submit such information as the Agency determines is necessary for it to determine whether to issue a permit and what conditions to impose in any permit issued;

u) For land disposal facilities, if a case-by-case extension has been approved under 35 Ill. Adm. Code 728.105 or if a petition has been approved under 35 Ill. Adm. Code 728.106, a copy of the notice of approval of the extension or of approval of the petition is required; and

v) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under 35 Ill. Adm. Code 703.191(c).

BOARD NOTE: Derived from 40 CFR 270.14(b) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.184 Facility Location Information

a) In order to show compliance with the facility location requirements of Section 21(l) of the Environmental Protection Act [415 ILCS 5/21(l)], the owner or operator must include the following information, or a demonstration that Section 21(l) does not apply:

1) Location of any active or inactive shaft or tunneled mine below the facility;

2) Location of any active faults in the earth’s crust within two miles of the facility boundary;

3) Location of existing private wells or existing sources of a public water supply within 1000 feet of any disposal unit boundary;

4) Location of the corporate boundaries of any municipalities within one and one-half miles of the facility boundary;

BOARD NOTE: Subsections (a)(1), (a)(2), (a)(3), and (a)(4) of this Section request information necessary to allow the Agency to determine the applicability of Section 21(l) of the Environmental Protection Act [415 ILCS 5/21(l)] requirements. These provisions are not intended to modify the requirements of the Act. For example, the operator is required to give the location of wells on its own property, even though the Agency might find that these do not prohibit the site location.

5) Documentation showing approval of municipalities if such approval is required by Section 21(l) of the Environmental Protection Act [415 ILCS 5/21(l)];

c) An owner or operator of all facilities must provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant flood map produced by the Federal Emergency Management Agency, National Flood Insurance Program (NFIP), if used, or the calculations and maps used where a NFIP map is not available. Information must also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) that must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood;

BOARD NOTE: NFIP maps are available as follows: Flood Map Distribution Center, National Flood Insurance Program, Federal Emergency Management Agency, 6930 (A-F) San Tomas Road, Baltimore, MD 21227-6227. 800-638-6620; and, Illinois Floodplain Information Depository, State Water Survey, 514 WSRC, University of Illinois, Urbana, IL 61801. 217-333-0447. Where NFIP maps are available, they will normally be determinative of whether a facility is located within or outside of the 100-year flood plain. However, where the NFIP map excludes an area (usually areas of the flood plain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year floodplain. Where NFIP maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to

determine whether the facility is within the 100-year floodplain, and if so located, what is the 100-year flood elevation.

d) An owner or operator of facilities located in the 100-year floodplain must provide the following information:

1) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;

2) Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood protection devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout;

3) If applicable, and in lieu of subsections (d)(1) and (d)(2) of this Section, a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including the following:

A) Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;

B) A description of the locations to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with 35 Ill. Adm. Code 702, 703, 724, and 725;

C) The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and

D) The potential for accidental discharges of the waste during movement;

e) An owner or operator of existing facilities not in compliance with 35 Ill. Adm. Code 724.118(b) must provide a plan showing how the facility will be brought into compliance and a schedule for compliance. Such an owner or operator must file a concurrent variance petition with the Board; and

f) An owner or operator of a new regional pollution control facility, as defined in Section 3 of the Environmental Protection Act [415 ILCS 5/3], must provide documentation showing site location suitability from the county board or other governing body as provided by Section 39(c) and 39.2 of that Act [415 ILCS 5/39(c) and 39.2].

BOARD NOTE: Subsections (b) through (e) of this Section are derived from 40 CFR 270.14(b)(11)(iii) through (b)(11)(v) (2002). The Board has not codified an equivalent to 40 CFR 270.14(b)(11)(i) and (b)(11)(ii), relating to certain seismic zones not located within Illinois.

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.185 Groundwater Protection Information

The following additional information regarding protection of groundwater is required from an owner or operator of a hazardous waste facility containing a regulated unit, except as provided in 35 Ill. Adm. Code 724.190(b):

a) A summary of the groundwater monitoring data obtained during the interim status period under 35 Ill. Adm. Code 725.190 through 725.194, where applicable;

b) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

c) On the topographic map required under Section 703.183(s), a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under 35 Ill. Adm. Code 724.195, the proposed location of groundwater monitoring wells as required under 35 Ill. Adm. Code 724.197 and, to the extent possible, the information required in subsection (b) of this Section;

d) A description of any plume of contamination that has entered the groundwater from a regulated unit at the time that the application is submitted that does the following:

1) It delineates the extent of the plume on the topographic map required under Section 703.183(s);

2) It identifies the concentration of each Appendix I to 35 Ill. Adm. Code 724 constituent throughout the plume or identifies the maximum concentrations of each Appendix I to 35 Ill. Adm. Code 724 constituent in the plume;

e) Detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of 35 Ill. Adm. Code 724.197;

f) If the presence of hazardous constituents has not been detected in the groundwater at the time of permit application, the owner or operator must submit sufficient information, supporting data and analyses to establish a detection monitoring program that meets the requirements of 35 Ill. Adm. Code 724.198. This submission must address the following items as specified under that Section:

1) A proposed list of indicator parameters, waste constituents or reaction products that can provide a reliable indication of the presence of hazardous constituents in the groundwater;

2) A proposed groundwater monitoring system;

3) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

4) A description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

g) If the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data and analyses to establish a compliance monitoring program that meets the requirements of 35 Ill. Adm. Code 724.199. Except as provided in 35 Ill. Adm. Code 724.198(h)(5), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of 35 Ill. Adm. Code 724.200, unless the owner or operator obtains written authorization in advance from the Agency to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with 35 Ill. Adm. Code 724.199, the owner or operator must address the following items:

1) A description of the wastes previously handled at the facility;

2) A characterization of the contaminated groundwater, including concentrations of hazardous constituents;

3) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with 35 Ill. Adm. Code 724.197 and 724.199;

4) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in 35 Ill. Adm. Code 724.194(a), including a justification for establishing any alternate concentration limits;

5) Detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of 35 Ill. Adm. Code 724.197; and

6) A description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

h) If hazardous constituents have been measured in the groundwater that exceed the concentration limits established under 35 Ill. Adm. Code 724.194, Table 1, or if groundwater monitoring conducted at the time of permit application under 35 Ill. Adm. Code 725.190 through 725.194 at the waste boundary indicates the presence of hazardous constituents from the facility in groundwater over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program that meets the requirements of 35 Ill. Adm. Code 724.200. However, an owner or operator is not required to submit information to establish a corrective action program if it demonstrates to the Agency that alternate concentration limits will protect human health and the environment after considering the criteria listed in 35 Ill. Adm. Code 724.194(b). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program that meets the requirements of subsection (f) and 35 Ill. Adm. Code 724.199. To demonstrate compliance with 35 Ill. Adm. Code 724.200, the owner or operator must address, at a minimum, the following items:

1) A characterization of the contaminated groundwater, including concentrations of hazardous constituents;

2) The concentration limit for each hazardous constituent found in the groundwater, as set forth in 35 Ill. Adm. Code 724.194;

3) Detailed plans and an engineering report describing the corrective action to be taken; and

4) A description of how the groundwater monitoring program will assess the adequacy of the corrective action.

5) The permit may contain a schedule for submittal of the information required in subsections (h)(3) and (h)(4) of this Section, provided the owner or operator obtains written authorization from the Agency prior to submittal of the complete permit application.

BOARD NOTE: See 40 CFR 270.14(c) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.186 Exposure Information

a) Any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address the following:

1) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

2) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under subsection (a)(1) of this Section; and

3) The potential magnitude and nature of the human exposure resulting from such releases.

b) By August 8, 1985, an owner or operator of a landfill or a surface impoundment that had already submitted a Part B application must have submitted the exposure information required in subsection (a) of this Section.

BOARD NOTE: Derived from 40 CFR 270.10(j) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.187 Solid Waste Management Units

a) The following information is required for each solid waste management unit at a facility seeking a permit:

1) The location of the unit on the topographic map required under Section 703.183(s);

2) Designation of the type of unit;

3) General dimensions and structural description (supply any available drawings);

4) When the unit was operated; and

5) Specification of all wastes that have been managed at the unit, to the extent available.

b) The owner or operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of hazardous wastes or hazardous constituents from such unit or units.

c) The owner or operator must conduct and provide the results of sampling and analysis of groundwater, land surface and subsurface strata, surface water or air, which may include the installation of wells, where the Agency determines it is necessary to complete a RCRA facility assessment that will determine if a more complete investigation is necessary.

BOARD NOTE: Derived from 40 CFR 270.14(d) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.188 Other Information

The Agency may require a permittee or applicant to submit information in order to establish permit conditions under Section 703.241(a)(2) (conditions necessary to protect human health and the environment) and 35 Ill. Adm. Code 702.161 (duration of permits).

BOARD NOTE: Derived from 40 CFR 270.10(k) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.191 Public Participation: Pre-Application Public Notice and Meeting

a) Applicability. The requirements of this Section must apply to any RCRA Part B application seeking an initial permit for a hazardous waste management unit. The requirements of this Section must also apply to any RCRA Part B application seeking renewal of a permit for such a unit, where the renewal application is proposing a significant change in facility operations. For the purposes of this Section, a "significant change" is any change that would qualify as a class 3 permit modification under Section 703.283 and Appendix A to this Part. The requirements of this Section do not apply to permit modifications under Sections 703.280 through 703.283 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

b) Prior to the submission of a RCRA Part B permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of its proposed hazardous waste management activities. The applicant must post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

c) The applicant must submit to the Agency, as part of its RCRA Part B permit application, a summary of the meeting, along with the list of attendees and their addresses developed under subsection (b) of this Section and copies of any written comments or materials submitted at the meeting, in accordance with Section 703.183.

d) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain documentation of the notice and provide that documentation to the permitting agency upon request.

1) The applicant must provide public notice in each of the following forms:

A) A newspaper advertisement. The applicant must publish a notice in a newspaper of general circulation in the county that hosts the proposed location of the facility. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. In addition, the Agency must instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties, where the Agency determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

B) A visible and accessible sign. The applicant must post a notice on a clearly marked sign at or near the facility. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

C) A broadcast media announcement. The applicant must broadcast a notice at least once on at least one local radio station or television station. The notice must fulfill the requirements set forth in subsection (d)(2) of this Section. The applicant may employ another medium with prior approval of the Agency.

D) A notice to the Agency. The applicant must send a copy of the newspaper notice to the permitting agency and to the appropriate units of State and local government, in accordance with 35 Ill. Adm. Code 705.163(a).

2) The notices required under subsection (d)(1) of this Section must include the following:

A) The date, time, and location of the meeting;

B) A brief description of the purpose of the meeting;

C) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

D) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

E) The name, address, and telephone number of a contact person for the applicant.

BOARD NOTE: Derived from 40 CFR 124.31 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.192 Public Participation: Public Notice of Application

a) Applicability. The requirements of this Section must apply to any RCRA Part B application seeking an initial permit for a hazardous waste management unit. The requirements of this Section must also apply to any RCRA Part B application seeking renewal of a permit for such a unit under 35 Ill. Adm. Code 702.125. The requirements of this Section do not apply to permit modifications under Sections 703.280 through 703.283 or a permit application submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

b) Notification at application submittal.

1) The Agency must provide public notice as set forth in 35 Ill. Adm. Code 705.161, and notice to appropriate units of State and local government as set forth in 35 Ill. Adm. Code 705.163(a)(5), that a Part B permit application has been submitted to the Agency and is available for review.

2) The notice must be published within 30 calendar days after the application is received by the Agency. The notice must include the following information:

A) The name and telephone number of the applicant’s contact person;

B) The name and telephone number of the appropriate Agency regional office, as directed by the Agency, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

C) An address to which people can write in order to be put on the facility mailing list;

D) The location where copies of the permit application and any supporting documents can be viewed and copied;

E) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

F) The date that the application was submitted.

c) Concurrent with the notice required under subsection (b) of this Section, the Agency must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Agency regional office appropriate for the facility.

BOARD NOTE: Derived from 40 CFR 124.32 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.193 Public Participation: Information Repository

a) Applicability. The requirements of this Section must apply to any application seeking a RCRA permit for a hazardous waste management unit.

b) The Agency must assess the need for an information repository on a case-by-case basis. When assessing the need for an information repository, the Agency must consider a variety of factors, including the following: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Agency determines, at any time after submittal of a permit application, that there is a need for a repository, then the Agency must notify the facility that it must establish and maintain an information repository. (See Section 703.248 for similar provisions relating to the information repository during the life of a permit.)

c) The information repository must contain all documents, reports, data, and information deemed necessary by the Agency to fulfill the purposes for which the repository is established. The Agency will have the discretion to limit the contents of the repository.

d) The information repository must be located and maintained at a site chosen by the facility. If the Agency determines that the chosen site is unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Agency must specify a more appropriate site.

e) The Agency must specify requirements for the applicant for informing the public about the information repository. At a minimum, the Agency must require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

f) The facility owner or operator must be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Agency. The Agency may close the repository if it determines that the repository is no longer needed based on its consideration of the factors in subsection (b) of this Section.

BOARD NOTE: Derived from 40 CFR 124.33 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.200 Specific Part B Application Information

Additional information is required in the Part B application by the following Sections from owners or operators of specific types of TSD unit:

a) Containers (Section 703.201);

b) Tanks (Section 703.202);

c) Surface impoundments (Section 703.203);

d) Waste piles (Section 703.204);

e) Incinerators (Section 703.205);

f) Land treatment (Section 703.206); and

g) Landfills (Section 703.207).

BOARD NOTE: Derived in part from 40 CFR 270.14(a) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.201 Containers

For a facility that stores containers of hazardous waste, except as otherwise provided in 35 Ill. Adm. Code 724.270, the Part B application must include the following:

a) A description of the containment system to demonstrate compliance with 35 Ill. Adm. Code 724.275. Show at least the following:

1) Basic design parameters, dimensions, and materials of construction;

2) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;

3) Capacity of the containment system relative to the number and volume of containers to be stored;

4) Provisions for preventing or managing run-on; and

5) How accumulated liquids can be analyzed and removed to prevent overflow.

b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with 35 Ill. Adm. Code 724.275(c), including the following:

1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

c) Sketches, drawings, or data demonstrating compliance with 35 Ill. Adm. Code 724.276 (location of buffer zone and containers holding ignitable or reactive wastes) and 35 Ill. Adm. Code 724.277(c) (location of incompatible wastes), where applicable.

d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 35 Ill. Adm. Code 724.117(b) and (c) and 724.277(a) and (b).

e) Information on air emission control equipment, as required in Section 703.213.

BOARD NOTE: Derived from 40 CFR 270.15 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.202 Tank Systems

Except as otherwise provided in 35 Ill. Adm. Code 724.290, the owner or operator of a facility that uses tanks to store or treat hazardous waste must provide the following additional information:

a) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under 35 Ill. Adm. Code 724.291 and 724.292;

b) Dimensions and capacity of each tank;

c) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

d) A diagram of piping, instrumentation, and process flow for each tank system;

e) A description of materials and equipment used to provide external corrosion protection, as required under 35 Ill. Adm. Code 724.292(a)(3)(B);

f) For new tank systems, a detailed descriptions of how the tank systems will be installed in compliance with 35 Ill. Adm. Code 724.292(b), (c), (d), and (e);

g) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of 35 Ill. Adm. Code 724.293(a), (b), (c), (d), (e), and (f);

h) For tank systems for which alternative design and operating practices are sought pursuant to 35 Ill. Adm. Code 724.293(g), the following:

1) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water during the life of the facility,

2) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment, or

3) A copy of the petition for alternative design and operating practices or, if such have already been granted, a copy of the Board order granting alternative design and operating practices;

i) Description of controls and practices to prevent spills and overflows, as required under 35 Ill. Adm. Code 724.294(b);

j) For tank systems in which ignitable, reactive or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of 35 Ill. Adm. Code 724.298 and 724.299; and

k) Information on air emission control equipment, as required in Section 703.213.

BOARD NOTE: Derived from 40 CFR 270.16 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.203 Surface Impoundments

For a facility that stores, treats, or disposes of hazardous waste in surface impoundments, except as otherwise provided in 35 Ill. Adm. Code 724.101, the Part B application must include the following:

a) A list of the hazardous wastes placed or to be placed in each surface impoundment.

b) Detailed plans and an engineering report describing how the surface impoundment is designed and is or will be constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.119, 724.321, 724.322, and 724.323, addressing the following items:

1) The liner system (except for an existing portion of a surface impoundment). If an exemption from the requirement for a liner is sought, as provided by 35 Ill. Adm. Code 724.321(b), submit a copy of the Board order granting an adjusted standard pursuant to 35 Ill. Adm. Code 724.321(b);

2) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of 35 Ill. Adm. Code 724.321(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative

design is sought as provided by 35 Ill. Adm. Code 724.321(d), (e), or (f), submit appropriate information;

3) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation and the location of the saturated zone in relation to the leak detection system;

4) The construction quality assurance (CQA) plan if required under 35 Ill. Adm. Code 724.119;

5) Proposed action leakage rate, with rationale, if required under 35 Ill. Adm. Code 724.322; response action plan, if required under 35 Ill. Adm. Code 724.323; and a proposed pump operating level, if required under 35 Ill. Adm. Code 724.326(d)(3);

6) Prevention of overtopping; and

7) Structural integrity of dikes.

c) A description of how each surface impoundment, including the double liner system, leak detection system, cover system, and appurtenances for control of overtopping will be inspected in order to meet the requirements of 35 Ill. Adm. Code 724.326(a), (b), and (d). This information must be included in the inspection plan submitted under Section 703.183(e).

d) A certification by a qualified engineer that attests to the structural integrity of each dike, as required under 35 Ill. Adm. Code 724.326(c). For new units, the owner or operator must submit a statement by a qualified engineer that the engineer will provide such a certification upon completion of construction in accordance with the plans and specifications.

e) A description of the procedure to be used for removing a surface impoundment from service, as required under 35 Ill. Adm. Code 724.327(b) and (c). This information must be included in the contingency plan submitted under Section 703.183(g).

f) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under 35 Ill. Adm. Code

724.328(a)(1). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how 35 Ill. Adm. Code 724.328(a)(2) and (b) will be complied with. This information must be included in the closure plan and, where applicable, the post-closure plan submitted under Section 703.183(m).

g) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how 35 Ill. Adm. Code 724.329 will be complied with.

h) If incompatible wastes, or incompatible wastes and materials, will be placed in a surface impoundment, an explanation of how 35 Ill. Adm. Code 724.330 will be complied with.

i) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026, and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.331. This submission must address the following items, as specified in that Section:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring techniques.

j) Information on air emission control equipment, as required in Section 703.213.

BOARD NOTE: Derived from 40 CFR 270.17 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.204 Waste Piles

For a facility that stores or treats hazardous waste in waste piles, except as otherwise provided in 35 Ill. Adm. Code 724.101, the Part B application must include the following:

a) A list of hazardous wastes placed or to be placed in each waste pile;

b) If an exemption is sought to 35 Ill. Adm Code 724.351 and Subpart F of 35 Ill. Adm. Code 724, as provided by 35 Ill. Adm. Code 724.350(c) or 724.190(b)(2), an explanation of how the requirements of 35 Ill. Adm. Code 724.350(c) will be complied with or detailed plans and an engineering report describing how the requirements of 35 Ill. Adm. Code 724.190(b)(2) will be met;

c) Detailed plans and an engineering report describing how the pile is designed and is or will be constructed, operated and maintained to meet the requirements of 35 Ill. Adm. Code 724.119, 724.351, 724.352, and 724.353, addressing the following items:

1) Liner, leak detection, and removal system.

A) The liner system (except for an existing portion of a waste pile), if the waste pile must meet the requirements of 35 Ill. Adm. Code 724.351(a). If an exemption from the requirement for a liner is sought, as provided by 35 Ill. Adm. Code 724.351(b), the owner or operator must submit a copy of the Board order granting an adjusted standard pursuant to 35 Ill. Adm. Code 724.351(b);

B) The double liner and leak (leachate) detection, collection and removal system, if the waste pile must meet the requirements of 35 Ill. Adm. Code 724.351(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by 35 Ill. Adm. Code 724.351(d), (e), or (f), submit appropriate information;

C) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

D) The CQA plan, if required under 35 Ill. Adm. Code 724.119;

E) Proposed action leakage rate, with rationale, if required under 35 Ill. Adm. Code 724.352, and response action plan, if required under 35 Ill. Adm. Code 724.353;

2) Control of run-on;

3) Control of run-off;

4) Management of collection and holding units associated with run-on and run-off control systems; and

5) Control of wind dispersal of particulate matter, where applicable;

d) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 35 Ill. Adm. Code 724.354(a), (b), and (c). This information must be included in the inspection plan submitted under Section 703.183(e).

e) If the treatment is carried out on or in the pile, details about the process and equipment used, and the nature and quality of the residuals;

f) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of 35 Ill. Adm. Code 724.356 will be complied with;

g) If incompatible wastes, or incompatible wastes and materials, will be placed in a waste pile, an explanation of how 35 Ill. Adm. Code 724.357 will be complied with;

h) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under 35 Ill. Adm. Code 724.358(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how 35 Ill. Adm. Code 724.410(a) and (b) will be complied with. This information must be included in the closure plan and, where applicable, the post-closure plan submitted under Section 703.183(m); and

i) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026, and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.359. This submission must address the following items as specified in that Section:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring techniques.

BOARD NOTE: Derived from 40 CFR 270.18 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.205 Incinerators that Burn Hazardous Waste

For a facility that incinerates hazardous waste, except as 35 Ill. Adm. Code 724.440 and subsection (e) of this Section provide otherwise, the applicant must fulfill the requirements of subsection (a), (b), or (c) of this Section in completing the Part B application.

a) When seeking exemption under 35 Ill. Adm. Code 724.440(b) or (c) (ignitable, corrosive, or reactive wastes only), the following requirements:

1) Documentation that the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C), or both;

2) Documentation that the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721 solely because it is reactive (Hazard Code R) for characteristics other than those listed in 35 Ill. Adm. Code 721.123(a)(4)

and (a)(5) and will not be burned when other hazardous wastes are present in the combustion zone;

3) Documentation that the waste is a hazardous waste solely because it possesses the characteristic of ignitability or corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under Subpart C of 35 Ill. Adm. Code 721; or

4) Documentation that the waste is a hazardous waste solely because it possesses the reactivity characteristics listed in 35 Ill. Adm. Code 721.123(a)(1) through (a)(3) or (a)(6) through (a)(8), and that it will not be burned when other hazardous wastes are present in the combustion zone.

b) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.222 et seq.

c) In lieu of a trial burn, the applicant may submit the following information:

1) An analysis of each waste or mixture of wastes to be burned including the following:

A) Heat value of the waste in the form and composition in which it will be burned;

B) Viscosity (if applicable) or description of physical form of the waste;

C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," USEPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111, or their equivalent;

D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," USEPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111; and

E) A quantification of those hazardous constituents in the waste that may be designated as POHCs based on data submitted from other trial or operational burns that demonstrate compliance with the performance standard in 35 Ill. Adm. Code 724.443;

2) A detailed engineering description of the incinerator, including the following:

A) Manufacturer's name and model number of incinerator;

B) Type of incinerator;

C) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

D) Description of auxiliary fuel system (type/feed);

E) Capacity of prime mover;

F) Description of automatic waste feed cutoff systems;

G) Stack gas monitoring and pollution control monitoring system;

H) Nozzle and burner design;

I) Construction materials; and

J) Location and description of temperature, pressure and flow indicating devices and control devices;

3) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to

support the contention that a trial burn is not needed. The data should include those items listed in subsection (c)(1) of this Section. This analysis should specify the POHCs that the applicant has identified in the waste for which a permit is sought, and any differences from the POHCs in the waste for which burn data are provided;

4) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

5) A description of the results submitted from any previously conducted trial burns, including the following:

A) Sampling and analysis techniques used to calculate performance standards in 35 Ill. Adm. Code 724.443;

B) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement); and

C) The certification and results required by subsection (b) of this Section;

6) The expected incinerator operation information to demonstrate compliance with 35 Ill. Adm. Code 724.443 and 724.445, including the following:

A) Expected carbon monoxide (CO) level in the stack exhaust gas;

B) Waste feed rate;

C) Combustion zone temperature;

D) Indication of combustion gas velocity;

E) Expected stack gas volume, flow rate, and temperature;

F) Computed residence time for waste in the combustion zone;

G) Expected hydrochloric acid removal efficiency;

H) Expected fugitive emissions and their control procedures; and

I) Proposed waste feed cut-off limits based on the identified significant operating parameters;

7) The Agency may, pursuant to 35 Ill. Adm. Code 705.122, request such additional information as may be necessary for the Agency to determine whether the incinerator meets the requirements of Subpart O of 35 Ill. Adm. Code 724 and what conditions are required by that Subpart and Section 39(d) of the Environmental Protection Act [415 ILCS 5/39(d)]; and

8) Waste analysis data, including that submitted in subsection (c)(1) of this Section, sufficient to allow the Agency to specify as permit Principal Organic Hazardous Constituents (permit POHCs) those constituents for which destruction and removal efficiencies will be required.

d) The Agency must approve a permit application without a trial burn if it finds the following:

1) The wastes are sufficiently similar; and

2) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under 35 Ill. Adm. Code 724.445) operating conditions that will ensure that the performance standards in 35 Ill. Adm. Code 724.443 will be met by the incinerator.

e) When an owner or operator demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in 40 CFR 63, subpart EEE, incorporated by reference in 35 Ill. Adm. Code 720.111 (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of 40 CFR 63, subpart EEE), the requirements of this Section do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply with Section 703.320(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for

purposes of information collection in accordance with Sections 703.188 and 703.241(b)(2).

BOARD NOTE: Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of 40 CFR 63, subpart EEE.

BOARD NOTE: Derived from 40 CFR 270.19 (2002), as amended at 67 Fed. Reg. 77687 (December 19, 2002).

(Source: Amended at 27 Ill. Reg. 12683, effective July 17, 2003)

Section 703.206 Land Treatment

For a facility that uses land treatment to dispose of hazardous waste, except as otherwise provided in 35 Ill. Adm. Code 724.101, the Part B application must include the following:

a) A description of plans to conduct treatment demonstration, as required under 35 Ill. Adm. Code 724.372. The description must include the following information:

1) The wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;

2) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

3) Any specific laboratory or field test that will be conducted, including the following:

A) the type of test (e.g., column leaching, degradation);

B) materials and methods, including analytical procedures;

C) expected time for completion;

D) characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

b) A description of a land treatment program, as required under 35 Ill. Adm. Code 724.371. This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

1) The wastes to be land treated;

2) Design measures and operating practices necessary to maximize treatment in accordance with 35 Ill. Adm. Code 724.373(a) including the following:

A) Waste application method and rate;

B) Measures to control soil pH;

C) Enhancement of microbial or chemical reactions; and

D) Control of moisture content;

3) Provisions for unsaturated zone monitoring, including the following:

A) Sampling equipment, procedures, and frequency;

B) Procedures for selecting sampling locations;

C) Analytical procedures;

D) Chain of custody control;

E) Procedures for establishing background values;

F) Statistical methods for interpreting results; and

G) The justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for such selection in 35 Ill. Adm. Code 724.378(a);

4) A list of hazardous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to 35 Ill. Adm. Code 724.113;

5) The proposed dimensions of the treatment zone;

c) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of 35 Ill. Adm. Code 724.373. This submission must address the following items:

1) Control of run-on;

2) Collection and control of run-off;

3) Minimization of run-off of hazardous constituents from the treatment zone;

4) Management of collection and holding facilities associated with run-on and run-off control systems;

5) Periodic inspection of the unit. This information should be included in the inspection plan submitted under Section 703.183(e); and

6) Control of wind dispersal of particulate matter, if applicable;

d) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under 35 Ill. Adm. Code 724.376(a) will be conducted, including the following:

1) Characteristics of the food-chain crop for which the demonstration will be made;

2) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

3) Procedures for crop growth, sample collection, sample analysis, and data evaluation; and

4) Characteristics of the comparison crop including the location and conditions under which it was or will be grown;

e) If food-chain crops are to be grown and cadmium is present in the land-treated waste, a description of how the requirements of 35 Ill. Adm. Code 724.376(b) will be complied with;

f) A description of the vegetative cover to be applied to closed portions of the facility and a plan for maintaining such cover during the post-closure care period, as required under 35 Ill. Adm. Code 724.380(a)(8) and (c)(2). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under Section 703.183(m);

g) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of 35 Ill. Adm. Code 724.381 will be complied with;

h) If incompatible wastes or incompatible wastes and materials will be placed in or on the same treatment zone, an explanation of how 35 Ill. Adm. Code 724.382 will be complied with; and

i) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026, and F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.383. This submission must address the following items as specified in that Section:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring techniques.

BOARD NOTE: Derived from 40 CFR 270.20 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.207 Landfills

For a facility that disposes of hazardous waste in landfills, except as otherwise provided in 35 Ill. Adm. Code 724.101, the Part B application must include the following:

a) A list of the hazardous wastes placed or to be placed in each landfill or landfill cell;

b) Detailed plans and an engineering report describing how the landfill is designed and is or will be constructed, operated and maintained to meet the requirements of 35 Ill. Adm. Code 724.119, 724.401, 724.402, and 724.403, addressing the following items:

1) Liner, leak detection, collection, and removal systems.

A) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of 35 Ill. Adm. Code 724.401(a). If an exemption from the requirement for a liner is sought as provided by 35 Ill. Adm. Code 724.401(b), submit a copy of the Board order granting an adjusted standard pursuant to 35 Ill. Adm. Code 724.401(b);

B) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of 35 Ill. Adm. Code 724.401(c). If an exemption from the requirements for double liners and a leak detection, collection and removal system or alternative design is sought as provided by 35 Ill. Adm. Code 724.401(d), (e), or (f), submit appropriate information;

C) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

D) The CQA plan, if required under 35 Ill. Adm. Code 724.119;

E) Proposed action leakage rate, with rationale, if required under 35 Ill. Adm. Code 724.402, and response action plan, if required under 35 Ill. Adm. Code 724.404, and proposed pump operating level, if required under 35 Ill. Adm. Code 724.403;

2) Control of run-on;

3) Control of run-off;

4) Management of collection and holding facilities associated with run-on and run-off control systems; and

5) Control of wind dispersal of particulate matter, where applicable;

c) A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 35 Ill. Adm. Code 724.403(a), (b), and (c). This information must be included in the inspection plan submitted under Section 703.183(e);

d) A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of the 35 Ill. Adm. Code 724.403(a) and (b). This information must be included in the inspection plan submitted under Section 703.183(e);

e) Detailed plans and an engineering report describing the final cover that will be applied to each landfill or landfill cell at closure in accordance with 35 Ill. Adm. Code 724.410(a), and a description of how each landfill will be maintained and monitored after closure in accordance with 35 Ill. Adm. Code 724.410(b). This information must be included in the closure and post-closure plans submitted under Section 703.183(m);

f) If ignitable or reactive wastes will be landfilled, an explanation of how the requirements of 35 Ill. Adm. Code 724.412 will be complied with;

g) If incompatible wastes, or incompatible wastes and materials, will be landfilled, an explanation of how 35 Ill. Adm. Code 724.413 will be complied with;

h) If bulk or non-containerized liquid waste or waste containing free liquids is to be landfilled, an explanation of how the requirements of 35 Ill. Adm. Code 724.414 will be complied with;

i) If containers of hazardous waste are to be landfilled, an explanation of how the requirements of 35 Ill. Adm. Code 724.415 or 724.416, as applicable, will be complied with; and

j) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026, and F027 describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.417. This submission must address the following items, as specified in that Section:

1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

2) The attenuative properties of underlying and surrounding soils or other materials;

3) The mobilizing properties of other materials co-disposed with these wastes; and

4) The effectiveness of additional treatment, design, or monitoring techniques.

BOARD NOTE: Derived from 40 CFR 270.21 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.208 Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in 40 CFR 63, subpart EEE, incorporated by reference in 35 Ill. Adm. Code 720.111 (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of 40 CFR 63, subpart EEE), the requirements of this Section do not apply, except those provisions that the Agency determines are necessary to ensure

compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section 703.310(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188 and 703.241(a)(2).

a) Trial burns.

1) General. Except as provided below, an owner or operator that is subject to the standards to control organic emissions provided by 35 Ill. Adm. Code 726.204, standards to control particulate matter provided by 35 Ill. Adm. Code 726.205, standards to control metals emissions provided by 35 Ill. Adm. Code 726.206, or standards to control hydrogen chloride (HCl) or chlorine gas emissions provided by 35 Ill. Adm. Code 726.207 must conduct a trial burn to demonstrate conformance with those standards and must submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with Section 703.232.

A) Under subsections (a)(2) through (a)(5) of this Section and 35 Ill. Adm. Code 726.204 through 726.207, the Agency may waive a trial burn to demonstrate conformance with a particular emission standard; and

B) The owner or operator may submit data in lieu of a trial burn, as prescribed in subsection (a)(6) of this Section.

2) Waiver of trial burn of DRE (destruction removal efficiency).

A) Boilers operated under special operating requirements. When seeking to be permitted under 35 Ill. Adm. Code 726.204(a)(4) and 726.210, which automatically waive the DRE trial burn, the owner or operator of a boiler must submit documentation that the boiler operates under the special operating requirements provided by 35 Ill. Adm. Code 726.210.

B) Boilers and industrial furnaces burning low risk waste. When seeking to be permitted under the provisions for low risk waste provided by 35 Ill. Adm. Code 726.204(a)(5) and 726.209(a),

which waive the DRE trial burn, the owner or operator must submit the following:

i) Documentation that the device is operated in conformance with the requirements of 35 Ill. Adm. Code 726.209(a)(1).

ii) Results of analyses of each waste to be burned, documenting the concentrations of nonmetal compounds listed in Appendix H to 35 Ill. Adm. Code 721, except for those constituents that would reasonably not be expected to be in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion explained. The analysis must rely on analytical techniques specified in Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, incorporated by reference in 35 Ill. Adm. Code 720.111.

iii) Documentation of hazardous waste firing rates and calculations of reasonable, worst-case emission rates of each constituent identified in subsection (a)(2)(B)(ii) of this Section using procedures provided by 35 Ill. Adm. Code 726.209(a)(2)(B).

iv) Results of emissions dispersion modeling for emissions identified in subsection (a)(2)(B)(iii) of this Section using modeling procedures prescribed by 35 Ill. Adm. Code 726.206(h). The Agency must review the emission modeling conducted by the applicant to determine conformance with these procedures. The Agency must either approve the modeling or determine that alternate or supplementary modeling is appropriate.

v) Documentation that the maximum annual average ground level concentration of each constituent identified in subsection (a)(2)(B)(ii) of this Section quantified in conformance with subsection (a)(2)(B)(iv) of this Section does not exceed the allowable ambient level established in Appendix D or E to 35 Ill. Adm. Code 726. The acceptable ambient concentration for emitted constituents for which a

specific reference air concentration has not been established in Appendix D to 35 Ill. Adm. Code 726 or risk-specific doses has not been established in Appendix E to 35 Ill. Adm. Code 726 is 0.1 micrograms per cubic meter, as noted in the footnote to Appendix D to 35 Ill. Adm. Code 726.

3) Waiver of trial burn for metals. When seeking to be permitted under the Tier I (or adjusted Tier I) metals feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) and (e) that control metals emissions without requiring a trial burn, the owner or operator must submit the following:

A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

B) Documentation of the concentration of each metal controlled by 35 Ill. Adm. Code 726.206(b) or (c) in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of each metal;

C) Documentation of how the applicant will ensure that the Tier I feed rate screening limits provided by 35 Ill. Adm. Code 726.206(b) or (e) will not be exceeded during the averaging period provided by that subsection;

D) Documentation to support the determination of the TESH (terrain-adjusted effective stack height), good engineering practice stack height, terrain type, and land use, as provided by 35 Ill. Adm. Code 726.206(b)(3) through (5);

E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.206(b)(6), if applicable, for facilities with multiple stacks;

F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.206(b)(7) for eligibility to comply with the screening limits; and

G) Proposed sampling and metals analysis plan for the hazardous waste, other fuels, and industrial furnace feed stocks.

4) Waiver of trial burn for PM (particulate matter). When seeking to be permitted under the low risk waste provisions of 35 Ill. Adm. Code 726.209(b), which waives the particulate standard (and trial burn to demonstrate conformance with the particulate standard), applicants must submit documentation supporting conformance with subsections (a)(2)(B) and (a)(3) of this Section.

5) Waiver of trial burn for HCl and chlorine gas. When seeking to be permitted under the Tier I (or adjusted Tier I) feed rate screening limits for total chlorine and chloride provided by 35 Ill. Adm. Code 726.207(b)(1) and (e) that control emissions of HCl and chlorine gas without requiring a trial burn, the owner or operator must submit the following:

A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace feed stocks;

B) Documentation of the levels of total chlorine and chloride in the hazardous waste, other fuels and industrial furnace feedstocks, and calculations of the total feed rate of total chlorine and chloride;

C) Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed rate screening limits provided by 35 Ill. Adm. Code 726.207(b)(1) or (e) will not be exceeded during the averaging period provided by that subsection;

D) Documentation to support the determination of the TESH, good engineering practice stack height, terrain type and land use as provided by 35 Ill. Adm. Code 726.207(b)(3);

E) Documentation of compliance with the provisions of 35 Ill. Adm. Code 726.207(b)(4), if applicable, for facilities with multiple stacks;

F) Documentation that the facility does not fail the criteria provided by 35 Ill. Adm. Code 726.207(b)(3) for eligibility to comply with the screening limits; and

G) Proposed sampling and analysis plan for total chlorine and chloride for the hazardous waste, other fuels, and industrial furnace feedstocks.

6) Data in lieu of trial burn. The owner or operator may seek an exemption from the trial burn requirements to demonstrate conformance with Section 703.232 and 35 Ill. Adm. Code 726.204 through 726.207 by providing the information required by Section 703.232 from previous compliance testing of the device in conformance with 35 Ill. Adm. Code 726.203 or from compliance testing or trial or operational burns of similar boilers or industrial furnaces burning similar hazardous wastes under similar conditions. If data from a similar device is used to support a trial burn waiver, the design and operating information required by Section 703.232 must be provided for both the similar device and the device to which the data is to be applied, and a comparison of the design and operating information must be provided. The Agency must approve a permit application without a trial burn if the Agency finds that the hazardous wastes are sufficiently similar, the devices are sufficiently similar, the operating conditions are sufficiently similar, and the data from other compliance tests, trial burns, or operational burns are adequate to specify (under 35 Ill. Adm. Code 726.102) operating conditions that will ensure conformance with 35 Ill. Adm. Code 726.102(c). In addition, the following information must be submitted:

A) For a waiver from any trial burn, the following:

i) A description and analysis of the hazardous waste to be burned compared with the hazardous waste for which data from compliance testing or operational or trial burns are provided to support the contention that a trial burn is not needed;

ii) The design and operating conditions of the boiler or industrial furnace to be used, compared with that for which comparative burn data are available; and

iii) Such supplemental information as the Agency finds necessary to achieve the purposes of this subsection (a).

B) For a waiver of the DRE trial burn, the basis for selection of POHCs (principal organic hazardous constituents) used in the other trial or operational burns that demonstrate compliance with the DRE performance standard in 35 Ill. Adm. Code 726.204(a). This analysis should specify the constituents in Appendix H to 35 Ill. Adm. Code 721 that the applicant has identified in the hazardous waste for which a permit is sought and any differences from the POHCs in the hazardous waste for which burn data are provided.

b) Alternative HC limit for industrial furnaces with organic matter in raw materials. An owner or operator of industrial furnaces requesting an alternative HC limit under 35 Ill. Adm. Code 726.204(f) must submit the following information at a minimum:

1) Documentation that the furnace is designed and operated to minimize HC emissions from fuels and raw materials;

2) Documentation of the proposed baseline flue gas HC (and CO) concentration, including data on HC (and CO) levels during tests when the facility produced normal products under normal operating conditions from normal raw materials while burning normal fuels and when not burning hazardous waste;

3) Test burn protocol to confirm the baseline HC (and CO) level including information on the type and flow rate of all feedstreams, point of introduction of all feedstreams, total organic carbon content (or other appropriate measure of organic content) of all nonfuel feedstreams, and operating conditions that affect combustion of fuels and destruction of hydrocarbon emissions from nonfuel sources;

4) Trial burn plan to do the following:

A) To demonstrate when burning hazardous waste that flue gas HC (and CO) concentrations do not exceed the baseline HC (and CO) level; and

B) To identify, in conformance with Section 703.232(d), the types and concentrations of organic compounds listed in Appendix H to 35

Ill. Adm. Code 721 that are emitted when burning hazardous waste;

5) Implementation plan to monitor over time changes in the operation of the facility that could reduce the baseline HC level and procedures to periodically confirm the baseline HC level; and

6) Such other information as the Agency finds necessary to achieve the purposes of this subsection (b).

c) Alternative metals implementation approach. When seeking to be permitted under an alternative metals implementation approach under 35 Ill. Adm. Code 726.206(f), the owner or operator must submit documentation specifying how the approach ensures compliance with the metals emissions standards of 35 Ill. Adm. Code 726.106(c) or (d) and how the approach can be effectively implemented and monitored. Further, the owner or operator must provide such other information that the Agency finds necessary to achieve the purposes of this subsection (c).

d) Automatic waste feed cutoff system. An owner or operator must submit information describing the automatic waste feed cutoff system, including any pre-alarm systems that may be used.

e) Direct transfer. An owner or operator that uses direct transfer operations to feed hazardous waste from transport vehicles (containers, as defined in 35 Ill. Adm. Code 726.211) directly to the boiler or industrial furnace must submit information supporting conformance with the standards for direct transfer provided by 35 Ill. Adm. Code 726.211.

f) Residues. An owner or operator that claims that its residues are excluded from regulation under the provisions of 35 Ill. Adm. Code 726.212 must submit information adequate to demonstrate conformance with those provisions.

BOARD NOTE: Derived from 40 CFR 270.22 (2002), as amended at 67 Fed. Reg. 77687 (December 19, 2002).

(Source: Amended at 27 Ill. Reg. 12683, effective July 17, 2003)

Section 703.209 Miscellaneous Units

Except as otherwise provided in 35 Ill. Adm. Code 724.700, the owner or operator of a facility that treats, stores, or disposes of hazardous waste in miscellaneous units must provide the following additional information in the Part B application:

a) A detailed description of the unit being used or proposed for use, including the following:

1) Physical characteristics, materials of construction, and dimensions of the unit;

2) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of 35 Ill. Adm. Code 724.701 and 724.702; and

3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of 35 Ill. Adm. Code 724.703;

b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of 35 Ill. Adm. Code 724.701. Preliminary hydrologic, geologic, and meteorologic assessments will suffice, unless the Agency notifies the applicant that, based on the preliminary assessments, the unit will not conform with the environmental performance standards of 35 Ill. Adm. Code 724.701. The Agency must follow the procedures for incomplete applications in 35 Ill. Adm. Code 705.122;

c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of such exposures;

d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data; and

e) Any additional information that the Agency determines is necessary for evaluation of compliance of the unit with the environmental performance standards of 35 Ill. Adm. Code 724.701.

BOARD NOTE: Derived from 40 CFR 270.23 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.210 Process Vents

Except as otherwise provided in 35 Ill. Adm. Code 724.101, the owner or operator of a facility that has process vents to which Subpart AA of 35 Ill. Adm. Code 724 applies must provide the following additional information:

a) For facilities that cannot install a closed-vent system and control device to comply with Subpart AA of 35 Ill. Adm. Code 724 on the effective date on which the facility becomes subject to that Subpart or Subpart AA of 35 Ill. Adm. Code 725, an implementation schedule, as specified in 35 Ill. Adm. Code 724.933(a)(2).

b) Documentation of compliance with the process vent standards in 35 Ill. Adm. Code 724.932, including the following:

1) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for the affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan);

2) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur; and

3) Information and data used to determine whether or not a process vent is subject to 35 Ill. Adm. Code 724.932.

c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with 35 Ill. Adm. Code 724.932, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).

d) Documentation of compliance with 35 Ill. Adm. Code 724.933, including the following:

1) A list of all information references and sources used in preparing the documentation.

2) Records, including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(k).

3) A design analysis, specifications, drawings, schematics, piping, and instrumentation diagrams based on the appropriate sections of APTI Course 415, incorporated by reference in 35 Ill. Adm. Code 720.111, or other engineering texts approved by the Agency that present basic control device design information. The design analysis must address the vent stream characteristics and control device parameters as specified in 35 Ill. Adm. Code 724.935(b)(4)(C).

4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater, unless the total organic emission limits of 35 Ill. Adm. Code 724.932(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

BOARD NOTE: Derived from 40 CFR 270.24 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.211 Equipment

Except as otherwise provided in 35 Ill. Adm. Code 724.101, the owner or operator of a facility that has equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies must provide the following additional information:

a) For each piece of equipment to which Subpart BB of 35 Ill. Adm. Code 724 applies, the following:

1) Equipment identification number and hazardous waste management unit identification;

2) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan);

3) Type of equipment (e.g., a pump or pipeline valve);

4) Percent by weight total organics in the hazardous wastestream at the equipment;

5) Hazardous waste state at the equipment (e.g., gas/vapor or liquid); and

6) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

b) For facilities that cannot install a closed-vent system and control device to comply with Subpart BB of 35 Ill. Adm. Code 724 on the effective date that facility becomes subject to this Subpart or Subpart BB of 35 Ill. Adm. Code 724, an implementation schedule as specified in 35 Ill. Adm. Code 724.933(a)(2).

c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound

concentration achieved by the control device, a performance test plan as specified in 35 Ill. Adm. Code 724.935(b)(3).

d) Documentation that demonstrates compliance with the equipment standards in 35 Ill. Adm. Code 724.952 or 724.959. This documentation must contain the records required under 35 Ill. Adm. Code 724.964. The Agency must request further documentation if necessary to demonstrate compliance. Documentation to demonstrate compliance with 35 Ill. Adm. Code 724.960 must include the following information:

1) A list of all information references and sources used in preparing the documentation;

2) Records, including the dates of each compliance test required by 35 Ill. Adm. Code 724.933(j);

3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of APTI Course 415, incorporated by reference in 35 Ill. Adm. Code 720.111, or other engineering texts approved by the Agency that present basic control device design information. The design analysis must address the vent stream characteristics and control device parameters as specified in 35 Ill. Adm. Code 724.935(b)(4)(C);

4) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur; and

5) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

BOARD NOTE: Derived from 40 CFR 270.25 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.212 Drip Pads

Except as otherwise provided by 35 Ill. Adm. Code 724.101, the owner or operator of a hazardous waste treatment, storage, or disposal facility that collects, stores, or treats hazardous waste on drip pads must provide the following additional information:

a) A list of hazardous wastes placed or to be placed on each drip pad.

b) If an exemption is sought to Subpart F of 35 Ill. Adm. Code 724, as provided by 35 Ill. Adm. Code 724.190, detailed plans and an engineering report describing how the requirements of 35 Ill. Adm. Code 724.190(b)(2) will be met.

c) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.673, including the as-built drawings and specifications. This submission must address the following items, as specified in 35 Ill. Adm. Code 724.671:

1) The design characteristics of the drip pad;

2) The liner system;

3) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

4) Practices designed to maintain drip pads;

5) The associated collection system;

6) Control of run-on to the drip pad;

7) Control of run-off from the drip pad;

8) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

9) Cleaning procedures and documentation:

A) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including, but not limited to: rinsing, washing with detergents or other appropriate solvents, or steam cleaning; and

B) Provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned;

10) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

11) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and non-pressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

12) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

13) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals;

14) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 35 Ill. Adm. Code 724.673. This information must be included in the inspection plan submitted under Section 703.183(e);

15) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of 35 Ill. Adm. Code 724.673(a) through (f); and

16) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under 35 Ill. Adm. Code 724.675(a). For any waste not to be removed from the

drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how 35 Ill. Adm. Code 724.410(a) and (b) will be complied with. This information must be included in the closure plan and, where applicable, the post-closure plan submitted under Section 703.183(m).

BOARD NOTE: Derived from 40 CFR 270.26 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.213 Air Emission Controls for Tanks, Surface Impoundments, and Containers

Except as otherwise provided in 35 Ill. Adm. Code 724.101, the owner or operator of a tank, a surface impoundment, or a container that uses air emission controls in accordance with the requirements of Subpart CC of 35 Ill. Adm. Code 724 must provide the following additional information:

a) Documentation for each floating roof cover installed on a tank subject to 35 Ill. Adm. Code 724.984(d)(1) or (d)(2) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the applicable design specifications, as listed in 35 Ill. Adm. Code 725.991(e)(1) or (f)(1).

b) Identification of each container area subject to the requirements of Subpart CC of 35 Ill. Adm. Code 724 and certification by the owner or operator that the requirements of this Subpart D are met.

c) Documentation for each enclosure used to control air pollutant emissions from containers in accordance with the requirements of 35 Ill. Adm. Code 724.984(d)(5) or 724.986(e)(1)(ii) that includes records for the most recent set of calculations and measurements performed by the owner or operator 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" under 40 CFR 52.741, appendix B, incorporated by reference in 35 Ill. Adm. Code 720.111.

d) Documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of 35 Ill. Adm. Code 724.985(c) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications listed in 35 Ill. Adm. Code 724.985(c)(1).

e) Documentation for each closed-vent system and control device installed in accordance with the requirements of 35 Ill. Adm. Code 724.987 that includes design and performance information, as specified in Section 703.124(c) and (d).

f) An emission monitoring plan for both Method 21 in 40 CFR 60, appendix A, incorporated by reference in 35 Ill. Adm. Code 720.111, and control device monitoring methods. This plan must include the following information: monitoring points, monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances.

g) When an owner or operator of a facility subject to Subpart CC of 35 Ill. Adm. Code 725 cannot comply with Subpart CC of 35 Ill. Adm. Code 724 by the date of permit issuance, the schedule of implementation required under 35 Ill. Adm. Code 725.982.

BOARD NOTE: Derived from 40 CFR 270.27(a) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.214 Post-Closure Care Permits

For post-closure care permits, the owner or operator is required to submit only the information specified in Sections 703.183(a), (d), (e), (f), (k), (m), (n), (p), (r), and (s); 703.184; 703.185; and 703.187, unless the Agency determines that additional information from Section 703.183, 703.202, 703.203, 703.204, 703.206, or 703.207 is necessary. The owner or operator is required to submit the same information when an alternative authority is used in lieu of a post-closure permit, as provided in Section 703.161.

BOARD NOTE: Derived from 40 CFR 270.28 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

SUBPART E: SHORT TERM AND PHASED PERMITS

Section 703.220 Emergency Permits

a) Notwithstanding any other provision of this Part or 35 Ill. Adm. Code 702 or 705, in the event that the Agency finds an imminent and substantial endangerment to human health or the environment, the Agency may issue a temporary emergency permit, as follows:

1) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or

2) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

b) This emergency permit must comply with all of the following requirements:

1) May be oral or written. If oral, it must be followed in five days by a written emergency permit.

2) Shall not exceed 90 days in duration.

3) Shall clearly specify the hazardous wastes to be received and the manner and location of their treatment, storage, or disposal.

4) May be terminated by the Agency at any time without process if it determines that termination is appropriate to protect human health and the environment.

5) Shall be accompanied by a public notice published under 35 Ill. Adm. Code 705.162 including the following:

A) Name and address of the office granting the emergency authorization;

B) Name and location of the permitted HWM facility;

C) A brief description of the wastes involved;

D) A brief description of the action authorized and reasons for authorizing it; and

E) Duration of the emergency permit.

6) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this Part and 35 Ill. Adm. Code 724.

7) Emergency permits that would authorize actions not in compliance with Board rules, other than procedural requirements, require a variance or provisional variance pursuant to Title IX of the Environmental Protection Act and 35 Ill. Adm. Code 104.

BOARD NOTE: Derived from 40 CFR 270.61 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.221 Alternative Compliance with the Federal NESHAPS

When an owner or operator demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in 40 CFR 63, subpart EEE, incorporated by reference in 35 Ill. Adm. Code 720.111 (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of 40 CFR 63, subpart EEE), the requirements of Sections 703.221 through 703.225 do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) if the owner or operator elects to comply with Section 703.310(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of Sections 703.221 through 703.225, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188 and 703.241(a)(2).

BOARD NOTE: Derived from 40 CFR 270.62 preamble (2002), as amended at 67 Fed. Reg. 77687 (December 19, 2002).

(Source: Amended at 27 Ill. Reg. 12683, effective July 17, 2003)

Section 703.222 Incinerator Conditions Prior to Trial Burn

For the purposes of determining operational readiness following completion of physical construction, the Agency must establish permit conditions, including but not limited to allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to bring the incinerator to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The Agency must extend the duration of this operation period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit must be modified to reflect the extension according to Section 703.280.

a) Applicants must submit a statement, with Part B of the permit application, which suggests the conditions necessary to operate in compliance with the performance standards of 35 Ill. Adm. Code 724.443 during this period. This statement must include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in 35 Ill. Adm. Code 724.445;

b) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this

period sufficient to meet the performance standards of 35 Ill. Adm. Code 724.443 based on engineering judgment.

BOARD NOTE: Derived from 40 CFR 270.62(a) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.223 Incinerator Conditions During Trial Burn

For the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 724.443 and of determining adequate operating conditions under 35 Ill. Adm. Code 724.445, the Agency must establish conditions in the permit to a new hazardous waste incinerator to be effective during the trial burn.

a) Applicants must propose a trial burn plan, prepared under subsection (b) of this Section with Part B of the permit application;

b) The trial burn plan must include the following information:

1) An analysis of each waste or mixture of wastes to be burned that includes the following:

A) Heat value of the waste in the form and composition in which it will be burned;

B) Viscosity (if applicable), or description of physical form of the waste;

C) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721, that are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Appendix H to 35 Ill. Adm. Code 721 that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," USEPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their equivalent;

D) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," USEPA Publication

SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their equivalent;

2) A detailed engineering description of the incinerator for which the permit is sought including the following:

A) Manufacturer's name and model number of incinerator (if available);

B) Type of incinerator;

C) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber;

D) Description of the auxiliary fuel system (type/feed);

E) Capacity of prime mover;

F) Description of automatic waste feed cut-off systems;

G) Stack gas monitoring and pollution control equipment;

H) Nozzle and burner design;

I) Construction materials;

J) Location and description of temperature-, pressure-, and flow-indicating and control devices;

3) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

4) A detailed test schedule for each waste for which the trial burn is planned including dates, duration, quantity of waste to be burned, and other factors relevant to the Agency's decision under subsection (e) of this Section;

5) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

6) A description of, and planned operating conditions for, any emission control equipment that will be used;

7) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

8) Such other information as the Agency reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection (b) and the criteria in subsection (e) of this Section. Such information must be requested by the Agency pursuant to 35 Ill. Adm. Code 705.123;

c) The Agency, in reviewing the trial burn plan, must evaluate the sufficiency of the information provided and must require the applicant, pursuant to 35 Ill. Adm. Code 705.123, to supplement this information, if necessary, to achieve the purposes of this Section;

d) Based on the waste analysis data in the trial burn plan, the Agency must specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs must be specified by the Agency based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, their concentration or mass in the waste feed, and, for wastes listed in Subpart D of 35 Ill. Adm. Code 721, the hazardous waste organic constituent of constituents identified in Appendix G or H to 35 Ill. Adm. Code 721 as the basis for listing;

e) The Agency must approve a trial burn plan if it finds the following:

1) That the trial burn is likely to determine whether the incinerator performance standard required by 35 Ill. Adm. Code 724.443 can be met;

2) That the trial burn itself will not present an imminent hazard to human health or the environment;

3) That the trial burn will help the Agency to determine operating requirements to be specified under 35 Ill. Adm. Code 724.445; and

4) That the information sought in subsections (e)(1) and (e)(3) of this Section cannot reasonably be developed through other means;

f) The Agency must send a notice to all persons on the facility mailing list, as set forth in 35 Ill. Adm. Code 705.161(a), and to the appropriate units of State and local government, as set forth in 35 Ill. Adm. Code 705.163(a)(5), announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Agency has issued such notice.

1) This notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn

is delayed due to circumstances beyond the control of the facility or the Agency.

2) This notice must contain the following:

A) The name and telephone number of the applicant's contact person;

B) The name and telephone number of the Agency regional office appropriate for the facility;

C) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

D) An expected time period for commencement and completion of the trial burn;

g) During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

1) A quantitative analysis of the trial POHCs, in the waste feed to the incinerator;

2) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, molecular oxygen, and hydrogen chloride (HCl);

3) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial POHCs;

4) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 724.443(a);

5) If the HCl (hydrogen chloride) emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency, in accordance with 35 Ill. Adm. Code 724.443(b);

6) A computation of particulate emissions, in accordance with 35 Ill. Adm. Code 724.443(c);

7) An identification of sources of fugitive emissions and their means of control;

8) A measurement of average, maximum and minimum temperatures, and combustion gas velocity;

9) A continuous measurement of carbon monoxide (CO) in the exhaust gas;

10) Such other information as the Agency specifies as necessary to ensure that the trial burn will determine compliance with the performance standards in 35 Ill. Adm. Code 724.443 and to establish the operating conditions required by 35 Ill. Adm. Code 724.445 as necessary to meet that performance standard;

h) The applicant must submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all the determinations required in subsection (g) of this Section. This submission must be made within 90 days after completion of the trial burn, or later, if approved by the Agency;

i) All data collected during any trial burn must be submitted to the Agency following the completion of the trial burn;

j) All submissions required by this Section must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 35 Ill. Adm. Code 702.126;

k) Based on the results of the trial burn, the Agency must set the operating requirements in the final permit according to 35 Ill. Adm. Code 724.445. The permit modification must proceed as a minor modification according to Section 703.280.

BOARD NOTE: Derived from 40 CFR 270.62(b) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.224 Incinerator Conditions After Trial Burn

For the purposes of allowing operation of a new hazardous waste incinerator following completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the Agency may establish permit conditions, including, but not limited to, allowable waste feeds and operating conditions sufficient to meet the requirements of 35 Ill. Adm. Code 724.445, in the permit to a new hazardous waste incinerator. These permit conditions will be effective for the minimum time required to complete sample analysis, data computation, and submission of the trial burn results by the applicant and modification of the facility permit by the Agency.

a) Applicants must submit a statement, with Part B of the permit application, that identifies the conditions necessary to operate in compliance with the performance standards of 35 Ill. Adm. Code 724.443, during this period. This statement should

include, at a minimum, restrictions on waste constituents, waste feed rates, and the operating parameters identified in 35 Ill. Adm. Code 724.445;

b) The Agency will review this statement and any other relevant information submitted with Part B of the permit application and specify those requirements for this period most likely to meet the performance standards of 35 Ill. Adm. Code 724.443 based on engineering judgment.

BOARD NOTE: Derived from 40 CFR 270.62(c) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.225 Trial Burns for Existing Incinerators

For the purpose of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 724.443 and of determining adequate operating conditions under 35 Ill. Adm. Code 724.445, the applicant for a permit for an existing hazardous waste incinerator must prepare and submit a trial burn plan and perform a trial burn in accordance with Sections 703.205(b) and 703.223(b) through (e) and (g) through (j) or, instead, submit other information, as specified in Section 703.205(c). The Agency must announce its intention to approve the trial burn plan in accordance with the timing and distribution requirements of Section 703.223(f). The contents of the notice must include the following: the name and telephone number of a contact person at the facility; the name and telephone number of a contact office at the Agency; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Agency approval of the plan and the time period during which the trial burn would be conducted. Applicants submitting information under Section 703.205(a) are exempt from compliance with 35 Ill. Adm. Code 724.443 and 724.445 and, therefore, are exempt from the requirement to conduct a trial burn. Applicants that submit trial burn plans and receive approval before submission of a permit application must complete the trial burn and submit the results, specified in Section 703.223(g), with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Agency to establish a later date for submission of the Part B application or the trial burn results. Trial burn results must be submitted prior to issuance of the permit. When the applicant submits a trial burn plan with Part B of the permit application, the Agency must specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

BOARD NOTE: Derived from 40 CFR 270.62(d) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.230 Land Treatment Demonstration

a) For the purpose of allowing an owner or operator to meet the treatment demonstration requirements of 35 Ill. Adm. Code 724.372, the Agency may issue a treatment demonstration permit. The permit must contain only those requirements necessary to meet the standards in 35 Ill. Adm. Code 724.372(c). The permit must be issued either as a treatment or disposal permit, covering only the field test or laboratory analyses, or as a two-phase facility permit, covering the field tests, or laboratory analyses and design, construction, operation, and maintenance of the land treatment unit.

1) The Agency must issue a two-phase facility permit if it finds, based on information submitted in Part B of the application, that substantial information already exists, although incomplete or inconclusive, upon which to base the issuance of a facility permit;

2) If the Agency finds that not enough information exists upon which it can establish permit conditions to attempt to provide for compliance with all of the requirements of Subpart M of 35 Ill. Adm. Code 724, it must issue a treatment demonstration permit covering only the field test or laboratory analyses;

b) If the Agency finds that a phased permit is to be issued, it must establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions must include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration cleanup activities, and any other conditions that the Agency finds necessary under 35 Ill. Adm. Code 724.372(c). The Agency must include conditions in the second phase of the facility permit to attempt to meet all Subpart M of 35 Ill. Adm. Code 724 requirements pertaining to unit design, construction, operation and maintenance. The Agency must establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application, as follows:

1) The first phase of the permit becomes effective as provided in 35 Ill. Adm. Code 705.201(d);

2) The second phase of the permit becomes effective as provided in subsection (d) of this Section;

c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, it must submit to the Agency a certification, signed by a person authorized to sign a permit application or report under 35 Ill. Adm. Code 702.126, that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within 90 days of completion of those tests or analyses, unless the Agency approves a later date;

d) If the Agency determines that the results of the field tests or laboratory analyses meet the requirements of 35 Ill. Adm. Code 724.372, it must modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with Subpart M of 35 Ill. Adm. Code 724, based upon the results of the field tests or laboratory analyses.

1) This permit modification may proceed as a minor modification under Section 703.280, or otherwise must proceed as a modification under Section 703.271(b). If such modifications are necessary, the second phase of the permit becomes effective only after those modifications have been made.

2) If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made, the Agency must give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of final decision on the second phase of the permit. The second phase of the permit then becomes effective as specified in 35 Ill. Adm. Code 705.201(d).

BOARD NOTE: Derived from 40 CFR 270.63 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.231 Research, Development and Demonstration Permits

a) The Agency may issue a research, development, and demonstration permit for any hazardous waste treatment facility that proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under 35 Ill. Adm. Code 724 or 726. Any such permit must include such terms and conditions as will assure protection of human health and the environment. Such a permit must provide as follows:

1) It must provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year, unless renewed as provided in subsection (d) of this Section;

2) It must provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

3) It must include such requirements as necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as necessary regarding testing and providing of information to the Agency with respect to the operation of the facility.

b) For the purpose of expediting review and issuance of permits under this Section, the Agency may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in this Part and 35 Ill. Adm. Code 702 and 705 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

c) Pursuant to Section 34 of the Act [415 ILCS 5/34], the Agency may order an immediate termination of all operations at the facility at any time it determines that termination is necessary to protect human health and the environment. The

permittee may seek Board review of the termination pursuant to Section 34(d) of the Act [415 ILCS 5/39(d)].

d) Any permit issued under this Section may be renewed not more than three times. Each such renewal must be for a period of not more than one year.

BOARD NOTE: Derived from 40 CFR 270.65 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

When the owner or operator of a cement or lightweight aggregate kiln demonstrates compliance with the air emission standards and limitations of the federal National Emission Standards for Hazardous Air Pollutants (NESHAPs) in 40 CFR 63, subpart EEE, incorporated by reference in 35 Ill. Adm. Code 720.111 (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of 40 CFR 63, subpart EEE), the requirements of this Section do not apply, except those provisions that the Agency determines are necessary to ensure compliance with 35 Ill. Adm. Code 726.202(e)(1) and (e)(2)(C) if the owner or operator elects to comply with Section 703.310(a)(1)(A) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Agency may apply the provisions of this Section, on a case-by-case basis, for purposes of information collection in accordance with Sections 703.188 and 703.241(a)(2).

a) General. The owner or operator of a new boiler or industrial furnace (one not operating under the interim status standards of 35 Ill. Adm. Code 726.203) is subject to subsections (b) through (f) of this Section. A boiler or industrial furnace operating under the interim status standards of 35 Ill. Adm. Code 726.203 is subject to subsection (g) of this Section.

b) Permit operating periods for a new boiler or industrial furnace. A permit for a new boiler or industrial furnace must specify appropriate conditions for the following operating periods:

1) Pretrial burn period. For the period beginning with initial introduction of hazardous waste and ending with initiation of the trial burn, and only for the minimum time required to bring the boiler or industrial furnace to a point of operation readiness to conduct a trial burn, not to exceed 720 hours operating time when burning hazardous waste, the Agency must establish permit conditions in the pretrial burn period, including but not limited to allowable hazardous waste feed rates and operating conditions. The Agency must extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause

is shown. The permit must be modified to reflect the extension according to Sections 703.280 through 703.283.

A) Applicants must submit a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with the standards of 35 Ill. Adm. Code 726.204 through 726.207 during this period. This statement should include, at a minimum, restrictions on the applicable operating requirements identified in 35 Ill. Adm. Code 726.202 (e).

B) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements for this period sufficient to meet the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.

2) Trial burn period. For the duration of the trial burn, the Agency must establish conditions in the permit for the purposes of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and determining adequate operating conditions under 35 Ill. Adm. Code 726.202(e). Applicants must propose a trial burn plan, prepared under subsection (c) of this Section, to be submitted with Part B of the permit application.

3) Post-trial burn period.

A) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Agency to reflect the trial burn results, the Agency must establish the operating requirements most likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.

B) Applicants must submit a statement, with Part B of the application, that identifies the conditions necessary to operate during this period in compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. This statement should include, at a minimum, restrictions on the operating requirements provided by 35 Ill. Adm. Code 726.202 (e).

C) The Agency must review this statement and any other relevant information submitted with Part B of the permit application and specify requirements of this period sufficient to meet the

performance standards of 35 Ill. Adm. Code 726.204 through 726.207 based on the Agency's engineering judgment.

4) Final permit period. For the final period of operation the Agency must develop operating requirements in conformance with 35 Ill. Adm. Code 726.202(e) that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207. Based on the trial burn results, the Agency must make any necessary modifications to the operating requirements to ensure compliance with the performance standards. The permit modification must proceed according to Sections 703.280 through 703.283.

c) Requirements for trial burn plans. The trial burn plan must include the following information. The Agency, in reviewing the trial burn plan, must evaluate the sufficiency of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this subsection (c).

1) An analysis of each feed stream, including hazardous waste, other fuels, and industrial furnace feed stocks, as fired, that includes the following:

A) Heating value, levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, silver, thallium, total chlorine and chloride, and ash; and

B) Viscosity or description of the physical form of the feed stream.

2) An analysis of each hazardous waste, as fired, including the following:

A) An identification of any hazardous organic constituents listed in Appendix H to 35 Ill. Adm. Code 721 that are present in the feed stream, except that the applicant need not analyze for constituents listed in Appendix H that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The analysis must be conducted in accordance with analytical techniques specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," USEPA Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or their equivalent;

B) An approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods specified in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods," USEPA

Publication SW-846, as incorporated by reference at 35 Ill. Adm. Code 720.111 and Section 703.110, or other equivalent; and

C) A description of blending procedures, if applicable, prior to firing the hazardous waste, including a detailed analysis of the hazardous waste prior to blending, an analysis of the material with which the hazardous waste is blended, and blending ratios.

3) A detailed engineering description of the boiler or industrial furnace, including the following:

A) Manufacturer's name and model number of the boiler or industrial furnace;

B) Type of boiler or industrial furnace;

C) Maximum design capacity in appropriate units;

D) Description of the feed system for the hazardous waste and, as appropriate, other fuels and industrial furnace feedstocks;

E) Capacity of hazardous waste feed system;

F) Description of automatic hazardous waste feed cutoff systems;

G) Description of any pollution control system; and

H) Description of stack gas monitoring and any pollution control monitoring systems.

4) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and sample analysis.

5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including dates, duration, quantity of hazardous waste to be burned, and other factors relevant to the Agency's decision under subsection (b)(2) of this Section.

6) A detailed test protocol, including, for each hazardous waste identified, the ranges of hazardous waste feed rate, and, as appropriate, the feed rates of other fuels and industrial furnace feedstocks, and any other relevant parameters that may affect the ability of the boiler or industrial furnace to meet the performance standards in 35 Ill. Adm. Code 726.204 through 726.207.

7) A description of and planned operating conditions for any emission control equipment that will be used.

8) Procedures for rapidly stopping the hazardous waste feed and controlling emissions in the event of an equipment malfunction.

9) Such other information as the Agency finds necessary to determine whether to approve the trial burn plan in light of the purposes of this subsection (c) and the criteria in subsection (b)(2) of this Section.

d) Trial burn procedures.

1) A trial burn must be conducted to demonstrate conformance with the standards of 35 Ill. Adm. Code 726.104 through 726.107.

2) The Agency must approve a trial burn plan if the Agency finds as follows:

A) That the trial burn is likely to determine whether the boiler or industrial furnace can meet the performance standards of 35 Ill. Adm. Code 726.104 through 726.107;

B) That the trial burn itself will not present an imminent hazard to human health and the environment;

C) That the trial burn will help the Agency to determine operating requirements to be specified under 35 Ill. Adm. Code 726.102(e); and

D) That the information sought in the trial burn cannot reasonably be developed through other means.

3) The Agency must send a notice to all persons on the facility mailing list, as set forth in 35 Ill. Adm. Code 705.161(a), and to the appropriate units of State and local government, as set forth in 35 Ill. Adm. Code 705.163(a)(5), announcing the scheduled commencement and completion dates for the trial burn. The applicant may not commence the trial burn until after the Agency has issued such notice.

A) This notice must be mailed within a reasonable time period before the trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the Agency.

B) This notice must contain the following:

i) The name and telephone number of applicant's contact person;

ii) The name and telephone number of the Agency regional office appropriate for the facility;

iii) The location where the approved trial burn plan and any supporting documents can be reviewed and copied; and

iv) An expected time period for commencement and completion of the trial burn.

4) The applicant must submit to the Agency a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and submit the results of all the determinations required in subsection (c) of this Section. The Agency must, in the trial burn plan, require that the submission be made within 90 days after completion of the trial burn, or later if the Agency determines that a later date is acceptable.

5) All data collected during any trial burn must be submitted to the Agency following completion of the trial burn.

6) All submissions required by this subsection (d) must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application or a report under 35 Ill. Adm. Code 702.126.

e) Special procedures for DRE trial burns. When a DRE trial burn is required under 35 Ill. Adm. Code 726.104, the Agency must specify (based on the hazardous waste analysis data and other information in the trial burn plan) as trial Principal Organic Hazardous Constituents (POHCs) those compounds for which destruction and removal efficiencies must be calculated during the trial burn. These trial POHCs will be specified by the Agency based on information including the Agency's estimate of the difficulty of destroying the constituents identified in the hazardous waste analysis, their concentrations or mass in the hazardous waste feed, and, for hazardous waste containing or derived from wastes listed in Subpart D of 35 Ill. Adm. Code 721, the hazardous waste organic constituents identified in Appendix G to 35 Ill. Adm. Code 721 as the basis for listing.

f) Determinations based on trial burn. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

1) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, thallium, silver, and chlorine/chloride in the feed streams (hazardous waste, other fuels, and industrial furnace feedstocks);

2) When a DRE trial burn is required under 35 Ill. Adm. Code 726.204(a), the following determinations:

   A) A quantitative analysis of the trial POHCs in the hazardous waste feed;

   B) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial POHCs; and

   C) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in 35 Ill. Adm. Code 726.204(a);

3) When a trial burn for chlorinated dioxins and furans is required under 35 Ill. Adm. Code 726.204(e), a quantitative analysis of the stack gas for the concentration and mass emission rate of the 2,3,7,8-chlorinated tetra- through octa-congeners of chlorinated dibenzo-p-dioxins and furans, and a computation showing conformance with the emission standard;

4) When a trial burn for PM, metals, or HCl and chlorine gas is required under 35 Ill. Adm. Code 726.205, 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the stack gas for the concentrations and mass emissions of PM, metals, or HCl and chlorine gas, and computations showing conformance with the applicable emission performance standards;

5) When a trial burn for DRE, metals, and HCl and chlorine gas is required under 35 Ill. Adm. Code 726.204(a), 726.206(c) or (d), or 726.207(b)(2) or (c), a quantitative analysis of the scrubber water (if any), ash residues, other residues, and products for the purpose of estimating the fate of the trial POHCs, metals, and chlorine and chloride;

6) An identification of sources of fugitive emissions and their means of control;

7) A continuous measurement of carbon monoxide (CO), oxygen, and, where required, hydrocarbons (HC) in the stack gas; and

8) Such other information as the Agency specifies as necessary to ensure that the trial burn will determine compliance with the performance standards 35 Ill. Adm. Code 726.204 through 726.207 and to establish the operating conditions required by 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions under 35 Ill. Adm. Code 726.203, and to establish the operating conditions required by 35 Ill. Adm. Code 726.202(e) as necessary to meet those performance standards.

g) Interim status boilers and industrial furnaces. For the purpose of determining feasibility of compliance with the performance standards of 35 Ill. Adm. Code 726.204 through 726.207 and of determining adequate operating conditions under 35 Ill. Adm. Code 726.203, an applicant that owns or operates an existing boiler or industrial furnace which is operated under the interim status standards of 35 Ill. Adm. Code 726.203 must either prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this Section or submit other information as specified in Section 703.208(a)(6). The Agency must announce its intention to approve of the trial burn plan in accordance with the timing and distribution requirements of subsection (d)(3) of this Section. The contents of the notice must include all of the following information: the name and telephone number of a contact person at the facility; the name and telephone number of the Agency regional office appropriate for the facility; the location where the trial burn plan and any supporting documents can be reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including the anticipated time schedule for Agency approval of the plan, and the time periods during which the trial burn would be conducted. Applicants that submit a trial burn plan and receive approval before submission of the Part B permit application must complete the trial burn and submit the results specified in subsection (f) of this Section with the Part B permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant must contact the Agency to establish a later date for submission of the Part B application or the trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results submitted within a time period prior to permit issuance to be specified by the Agency.

BOARD NOTE: Derived from 40 CFR 270.66 (2002), as amended at 67 Fed. Reg. 77687 (December 19, 2002).

(Source: Amended at 27 Ill. Reg. 12683, effective July 17, 2003)

Section 703.234 Remedial Action Plans

Remedial Action Plans (RAPs) are special forms of permits that are regulated under Subpart H of this Part.

BOARD NOTE: Derived from 40 CFR 270.68 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section 703.240 Permit Denial

The Agency may, pursuant to the procedures of 35 Ill. Adm. Code 705, deny the permit application either in its entirety or only as to the active life of a HWM facility or unit.

BOARD NOTE: Derived from 40 CFR 270.29 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.241 Establishing Permit Conditions

a) General conditions:

1) In addition to the conditions established under 35 Ill. Adm. Code 702.160(a), each RCRA permit must include permit conditions necessary to achieve compliance with each of the applicable requirements specified in 35 Ill. Adm. Code 724 and 726 through 728. In satisfying this provision, the Agency may incorporate applicable requirements of 35 Ill. Adm. Code 724 and 726 through 728 directly into the permit or establish other permit conditions that are based on these Parts;

2) Each RCRA permit issued under Section 39(d) of the Environmental Protection Act [415 ILCS 5/39(d)] must contain terms and conditions that the Agency determines are necessary to protect human health and the environment.

BOARD NOTE: Subsection (a) derived from 270.32(b) (2002).

b) The conditions specified in this Subpart, in addition to those set forth in 35 Ill. Adm. Code 702.140 through 702.152, apply to all RCRA permits.

BOARD NOTE: Subsection (b) derived from 40 CFR 270.30 preamble (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.242 Noncompliance Pursuant to Emergency Permit

In addition to 35 Ill. Adm. Code 702.141 (duty to comply), the permittee need not comply with the conditions of its permit to the extent and for the duration such noncompliance is authorized in an emergency permit. (See Section 703.221).

BOARD NOTE: Derived from 40 CFR 270.30(a) (1992).

(Source: Amended at 18 Ill. Reg. 18316, effective December 20, 1994)

Section 703.243 Monitoring

In addition to 35 Ill. Adm. Code 702.150 (monitoring) the following apply:

a) The permittee must retain records of all monitoring information, including the certification required by 35 Ill. Adm. Code 724.173(b)(3), for a period of at least three years from the date of the certification.

b) The permittee must maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.

BOARD NOTE: Derived from 40 CFR 270.30(j)(2) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.244 Notice of Planned Changes (Repealed)

(Source: Repealed at 18 Ill. Reg. 18316, effective December 20, 1994)

Section 703.245 Twenty-four Hour Reporting

a) The permittee must report any non-compliance that may endanger health or the environment orally within 24 hours after the permittee becomes aware of the circumstances, including the following:

1) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies;

2) Any information of a release or discharge of hazardous waste, or of a fire or explosion from a HWM facility, that could threaten the environment or human health outside the facility.

b) The description of the occurrence and its cause must include the following:

1) Name, address, and telephone number of the owner or operator;

2) Name, address, and telephone number of the facility;

3) Date, time, and type of incident;

4) Name and quantity of materials involved;

5) The extent of injuries, if any;

6) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

7) Estimated quantity and disposition of recovered material that resulted from the incident.

c) A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the non-compliance and its cause; the period of noncompliance including exact dates, times, and, if the noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Agency may waive the five-day written notice requirement in favor of a written report within 15 days.

BOARD NOTE: Derived from 40 CFR 270.30(l)(6) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.246 Reporting Requirements

The following reports required by 35 Ill. Adm. Code 724 must be submitted in addition to those required by 35 Ill. Adm. Code 702.152 (reporting requirements):

a) Manifest discrepancy report: if a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within 15 days, the permittee must submit a letter report including a copy of the manifest to the Agency (see 35 Ill. Adm. Code 724.172).

b) Unmanifested waste report: if hazardous waste is received without an accompanying manifest, the permittee must submit an unmanifested waste report to the Agency within 15 days of receipt of unmanifested waste. (see 35 Ill. Adm. Code 724.176)

c) Annual report: an annual report must be submitted covering facility activities during the previous calendar year (see 35 Ill. Adm. Code 724.175).

BOARD NOTE: Derived from 40 CFR 270.30(l)(7) through (l)(9) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.247 Anticipated Noncompliance

In addition to 35 Ill. Adm. Code 702.152(b), for a new facility, the permittee must not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee must not treat, store, or dispose of hazardous waste in the modified portion of the facility, except as provided in Section 703.280, until one of the following has occurred:

a) The permittee has submitted to the Agency by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and

b) Either:

1) The Agency has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

2) Within 15 days after the date of submission of the letter in subsection (a) of this Section, the permittee has not received notice from the Agency of its intent to inspect, the permittee may commence treatment, storage, or disposal of hazardous waste.

BOARD NOTE: Derived from 40 CFR 270.30(l)(2) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.248 Information Repository

The Agency may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in Section 703.193(b). The information repository must be governed by the provisions in Section 703.193(c) through (f).

BOARD NOTE: Derived from 40 CFR 270.30(m) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

SUBPART G: CHANGES TO PERMITS

Section 703.260 Transfer

a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or reissued (under subsection (b) of this Section or Section 703.272) to identify the new permittee and incorporate such other requirements as are necessary under the appropriate Act. The new owner or operator to whom the permit is transferred must comply with all the terms and conditions specified in such permit.

b) Changes in the ownership or operational control of a facility must be made as a Class 1 modification with the prior written approval of the Agency in accordance with Section 703.281. The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Agency. When a transfer of ownership or operational control occurs, the old owner or operator must comply with the requirements of Subpart H of 35 Ill. Adm. Code 724 (Financial Requirements), until the new owner or operator has demonstrated compliance with that Subpart. The new owner or operator must demonstrate compliance with that Subpart within six months after the date of change of operational control of the facility. Upon demonstration to the Agency by the new owner or operator of compliance with that Subpart, the Agency must notify the

old owner or operator that the old owner or operator no longer needs to comply with that Subpart as of the date of demonstration.

BOARD NOTE: Derived from 40 CFR 270.40 (2002).

BOARD NOTE: The new operator may be required to employ a chief operator that is certified pursuant to 35 Ill. Adm. Code 745.

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.270 Modification

When the Agency receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see 35 Ill. Adm. Code 702.140 through 702.152 and Section 703.241 et seq.), receives a request for reissuance under 35 Ill. Adm. Code 705.128 or conducts a review of the permit file) it may determine whether or not one or more of the causes, listed in Sections 703.271 or 703.272, for modification, reissuance or both, exist. If cause exists, the Agency must modify or reissue the permit accordingly, subject to the limitations of Section 703.273, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (see 35 Ill. Adm. Code 705.128(c)(2)) If cause does not exist under Section 703.271 or 703.272, the Agency must not modify or reissue the permit, except on the request of the permittee. If a permit modification is requested by the permittee, the Agency must approve or deny the request according to the procedures of Section 703.280 et seq. Otherwise, a draft permit must be prepared and other procedures in 35 Ill. Adm. Code 705 must be followed.

BOARD NOTE: Derived from the preamble to 40 CFR 270.41 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.271 Causes for Modification

The following are cause for modification, but not reissuance, of permits; the following are cause for reissuance as well as modification when the permittee requests or agrees:

a) Alterations. There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

b) Information. The Agency has received information. Permits will be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

c) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued.

d) Compliance schedules. The Agency determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

e) The Agency must also modify a permit as follows:

1) When modification of a closure plan is required under 35 Ill. Adm. Code 724.212(b) or 724.218(b).

2) After the Agency receives the notification of expected closure under 35 Ill. Adm. Code 724.213, when the Agency determines that extension of the 90 or 180 day periods under 35 Ill. Adm. Code 724.213, modification of the 30-year post-closure period under 35 Ill. Adm. Code 724.217(a), continuation of security requirements under 35 Ill. Adm. Code 724.217(b), or permission to disturb the integrity of the containment system under 35 Ill. Adm. Code 724.217(c) are unwarranted.

3) When the permittee has filed a request under 35 Ill. Adm. Code 724.247(c) for a modification to the level of financial responsibility or when the Agency demonstrates under 35 Ill. Adm. Code 724.247(d) that an upward adjustment of the level of financial responsibility is required.

4) When the corrective action program specified in the permit under 35 Ill. Adm. Code 724.200 has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time.

5) To include a detection monitoring program meeting the requirements of 35 Ill. Adm. Code 724.198, when the owner or operator has been conducting a compliance monitoring program under 35 Ill. Adm. Code 724.199 or a corrective action program under 35 Ill. Adm. Code 724.200, and the compliance period ends before the end of the post-closure care period for the unit.

6) When a permit requires a compliance monitoring program under 35 Ill. Adm. Code 724.199, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

7) To include conditions applicable to units at a facility that were not previously included in the facility's permit.

8) When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

f) Notwithstanding any other provision of this Section, when a permit for a land disposal facility is reviewed under 35 Ill. Adm. Code 702.161(d), the Agency must modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this Part and 35 Ill. Adm. Code 702 and 720 through 726.

BOARD NOTE: Derived from 40 CFR 270.41(a) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.272 Causes for Modification or Reissuance

The following are causes to modify or, alternatively, reissue a permit: The Agency has received notification (as required in the permit, see 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of the permit.

BOARD NOTE: Derived from 40 CFR 270.41(b), as amended at 53 Fed. Reg. 37934, September 28, 1988.

(Source: Added at 13 Ill. Reg. 18477, effective November 13, 1989)

Section 703.273 Facility Siting

Suitability of the facility location will not be considered at the time of permit modification or reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance or unless required under the Environmental Protection Act. However, certain modifications require site location suitability approval pursuant to Section 39.2 of the Environmental Protection Act [415 ILCS 5/39.2].

BOARD NOTE: Derived from 40 CFR 270.41(c) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.280 Permit Modification at the Request of the Permittee

a) Class 1 modifications. See Section 703.281.

b) Class 2 modifications. See Section 703.282.

c) Class 3 modifications. See Section 703.283.

d) Other modifications.

1) In the case of modifications not explicitly listed in Appendix A, the permittee may submit a Class 3 modification request to the Agency, or the permittee may request a determination by the Agency that the modification be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, the permittee must provide the Agency with the necessary information to support the requested classification.

2) The Agency must make the determination described in subsection (d)(1) of this Section as promptly as practicable. In determining the appropriate class for a specific modification, the Agency must consider the similarity of the modification to other modifications codified in Appendix A and the following criteria:

A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the Agency may require prior approval.

B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to any of the following:

i) Common variations in the types and quantities of the wastes managed under the facility permit;

ii) Technological advances; and

iii) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

C) Class 3 modifications substantially alter the facility or its operation.

e) Temporary authorizations.

1) Upon request of the permittee, the Agency must, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations have a term of not more than 180 days.

2) Procedures.

A) The permittee may request a temporary authorization for the following:

i) Any Class 2 modification meeting the criteria in subsection (e)(3)(B) of this Section; and

ii) Any Class 3 modification that meets the criteria in subsection (e)(3)(B)(i) of this Section or that meets the criteria in subsections (e)(3)(B)(iii) through (e)(3)(B)(v) of this Section and provides improved management or treatment of a hazardous waste already listed in the facility permit.

B) The temporary authorization request must include the following:

i) A description of the activities to be conducted under the temporary authorization;

ii) An explanation of why the temporary authorization is necessary; and

iii) Sufficient information to ensure compliance with 35 Ill. Adm. Code 724 standards.

C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Agency and to appropriate units of State and local governments, as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within seven days after submission of the authorization request.

3) The Agency must approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Agency must find as follows:

A) That the authorized activities are in compliance with the standards of 35 Ill. Adm. Code 724.

B) That the temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

i) To facilitate timely implementation of closure or corrective action activities;

ii) To allow treatment or storage in tanks, containers, or containment buildings, in accordance with 35 Ill. Adm. Code 728;

iii) To prevent disruption of ongoing waste management activities;

iv) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

v) To facilitate other changes to protect human health and the environment.

4) A temporary authorization must be reissued for one additional term of up to 180 days, provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and either of the following is true:

A) The reissued temporary authorization constitutes the Agency's decision on a Class 2 permit modification in accordance with Section 703.282(f)(1)(D) or (f)(2)(D); or

B) The Agency determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of 35 Ill. Adm. Code 703.283 are conducted.

f) Public notice and appeals of permit modification decisions.

1) The Agency must notify persons on the facility mailing list and appropriate units of State and local government within 10 days after any decision to grant or deny a Class 2 or 3 permit modification request. The Agency must also notify such persons within 10 days after an automatic authorization for a Class 2 modification goes into effect under Section 703.282(f)(3) or (f)(5).

2) The Agency's decision to grant or deny a Class 2 or 3 permit modification request may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212.

3) An automatic authorization that goes into effect under Section 703.282(f)(3) or (f)(5) may be appealed under the permit appeal procedures of 35 Ill. Adm. Code 705.212; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the Board enters a final order on the appeal notwithstanding the provisions of 35 Ill. Adm. Code 705.204.

g) Newly regulated wastes and units.

1) The permittee is authorized to continue to manage wastes listed or identified as hazardous under 35 Ill. Adm. Code 721, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if each of the following is true:

A) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

B) The permittee submits a Class 1 modification request on or before the date on which the waste becomes subject to the new requirements;

C) The permittee is in compliance with the applicable standards of 35 Ill. Adm. Code 725 and 726;

D) The permittee also submits a complete class 2 or 3 modification request within 180 days after the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards under 35 Ill. Adm. Code 724, 725, or 726; and

E) In the case of land disposal units, the permittee certifies that such unit is in compliance with all applicable requirements of 35 Ill. Adm. Code 725 for groundwater monitoring and financial responsibility requirements on the date 12 months after the effective date of the rule identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, the owner or operator loses authority to operate under this Section.

2) New wastes or units added to a facility's permit under this subsection (g) do not constitute expansions for the purpose of the 25 percent capacity expansion limit for Class 2 modifications.

h) Military hazardous waste munitions treatment and disposal. The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes, if each of the following is true:

1) The facility was in existence as a hazardous waste facility and the facility was already permitted to handle the waste military munitions on the date when the waste military munitions became subject to hazardous waste regulatory requirements;

2) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and

3) The permittee submits a complete Class 2 modification request within 180 days after the date when the waste military munitions became subject to hazardous waste regulatory requirements.

i) Permit modification list. The Agency must maintain a list of all approved permit modifications and must publish a notice once a year in a State-wide newspaper that an updated list is available for review.

j) Combustion facility changes to meet federal 40 CFR 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under Appendix A, paragraph L(9) of this Part.

1) A facility owner or operator must have complied with the federal notification of intent to comply (NIC) requirements of 40 CFR 63.1210 that was in effect prior to October 11, 2000, (see 40 CFR 63 (2000)) in order to request a permit modification under this Section.

2) If the Agency does not act to either approve or deny the request within 90 days of receiving it, the request must be deemed approved. The Agency may, at its discretion, extend this 90-day deadline one time for up to 30 days by notifying the facility owner or operator in writing before the 90 days has expired.

BOARD NOTE: Derived from 40 CFR 270.42(d) through (j) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.281 Class 1 Modifications

a) Except as provided in subsection (a)(2) of this Section, the permittee may put into effect Class I modifications listed in Appendix A under the following conditions:

1) The permittee must notify the Agency concerning the modification by certified mail or other means that establish proof of delivery within 7 calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by Section 703.181 through 703.185, 703.201 through 703.207, 703.221 through 703.225, and 703.230.

2) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the Agency in accordance with 35 Ill. Adm. Code 705.163(a)(4), and the appropriate units of State and local government, as specified in 35 Ill. Adm. Code 705.163(a)(5). This notification must be made within 90 calendar days after the change is put into effect. For the Class 1 modifications that require prior Agency approval, the notification must be made within 90 calendar days after the Agency approves the request.

3) Any person may request the Agency to review, and the Agency must for cause reject, any Class 1 modification. The Agency must inform the permittee by certified mail that a Class 1 modification has been rejected,

explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

b) Class 1 permit modifications identified in Appendix A by an asterisk must be made only with the prior written approval of the Agency.

c) For a Class 1 permit modification, the permittee may elect to follow the procedures in Section 703.282 for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the Agency of this decision in the notice required in Section 703.282(b)(1).

BOARD NOTE: Derived from 40 CFR 270.42(a) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.282 Class 2 Modifications

a) For Class 2 modifications, listed in Appendix A, the permittee must submit a modification request to the Agency that does the following:

1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

2) Identifies that the modification is a Class 2 modification;

3) Explains why the modification is needed; and

4) Provides the applicable information required by Section 703.181 through 703.185, 703.201 through 703.207, 703.221 through 703.225, and 703.230.

b) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government as specified in 35 Ill. Adm. Code 705.163(a)(5) and must, to the extent practicable, publish this notice in a newspaper of general circulation published in the County in which the facility is located. If no such newspaper exists, the permittee must publish the notice in a newspaper of general circulation in the vicinity of the facility. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and

the permittee must provide to the Agency evidence of the mailing and publication. The notice must include:

1) Announcement of a 60-day comment period, in accordance with subsection (e) of this Section, and the name and address of an Agency contact to whom comments must be sent;

2) Announcement of the date, time and place for a public meeting held in accordance with subsection (d) of this Section;

3) Name and telephone number of the permittee's contact person;

4) Name and telephone number of an Agency contact person;

5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and

6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency contact person."

c) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

d) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in subsection (b) of this Section and no later than 15 days before the close of the 60-day comment period. The meeting must be held in the County in which the permitted facility is located, unless it is impracticable to do so, in which case the hearing must be held in the vicinity of the facility.

e) The public must be provided 60 days to comment on the modification request. The comment period begins on the date that the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.

f) Agency decision.

1) No later than 90 days after receipt of the notification request, the Agency must:

   A) Approve the modification request, with or without changes, and modify the permit accordingly;

   B) Deny the request;

   C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for either of the following reasons:

      i) There is significant public concern about the proposed modification; or

      ii) The complex nature of the change requires the more extensive procedures of Class 3;

   D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days; or

   E) Notify the permittee that the Agency will decide on the request within the next 30 days.

2) If the Agency notifies the permittee of a 30-day extension for a decision, the Agency must, no later than 120 days after receipt of the modification request, do the following:

   A) Approve the modification request, with or without changes, and modify the permit accordingly;

   B) Deny the request;

   C) Determine that the modification request must follow the procedures in Section 703.283 for Class 3 modifications for the following reasons:

      i) There is significant public concern about the proposed modification; or

ii) The complex nature of the change requires the more extensive procedures of Class 3; or

D) Approve the request, with or without changes, as a temporary authorization having a term of up to 180 days.

3) If the Agency fails to make one of the decisions specified in subsection (f)(2) of this Section by the 120th day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to 180 days, without formal Agency action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 35 Ill. Adm. Code 725. If the Agency approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in subsections (f)(1), (f)(2), or (f)(3) of this Section, such action cancels the temporary or automatic authorization.

4) Notification by permittee.

A) In the case of an automatic authorization under subsection (f)(3) of this Section, or a temporary authorization under subsection (f)(1)(D) or (f)(2)(D) of this Section, if the Agency has not made a final approval or denial of the modification request by the date 50 days prior to the end of the temporary or automatic authorization, the permittee must, within seven days after that time, send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that informs them as follows:

i) That the permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

ii) That, unless the Agency acts to give final approval or denial of the request by the end of the authorization period,

the permittee will receive authorization to conduct such activities for the life of the permit.

B) If the owner or operator fails to notify the public by the date specified in subsection (f)(4)(A) of this Section, the effective date of the permanent authorization will be deferred until 50 days after the owner or operator notifies the public.

5) Except as provided in subsection (f)(7) of this Section, if the Agency does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3 modification, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under Section 703.270 or Section 703.280. The activities authorized under this subsection must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 35 Ill. Adm. Code 725.

6) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Agency must consider all written comments submitted to the Agency during the public comment period and must respond in writing to all significant comments in the Agency's decision.

7) With the written consent of the permittee, the Agency may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

g) The Agency must deny or change the terms of a Class 2 permit modification request under subsections (f)(1) through (f)(3) of this Section for the following reasons:

1) The modification request is incomplete;

2) The requested modification does not comply with the appropriate requirements of 35 Ill. Adm. Code 724 or other applicable requirements; or

3) The conditions of the modification fail to protect human health and the environment.

h) The permittee may perform any construction associated with a Class 2 permit modification request beginning 60 days after the submission of the request unless the Agency establishes a later date for commencing construction and informs the permittee in writing before day 60.

BOARD NOTE: Derived from 40 CFR 270.42(b) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.283 Class 3 Modifications

a) For Class 3 modifications, listed in Appendix A, the permittee must submit a modification request to the Agency that does the following:

1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

2) Identifies that the modification is a Class 3 modification;

3) Explains why the modification is needed; and

4) Provides the applicable information required by Section 703.181 through 703.187, 703.201 through 703.209, 703.221 through 703.225, 703.230, and 703.232.

b) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the Agency and to the appropriate units of State and local government, as specified in 35 Ill. Adm. Code 705.163(a)(5), and must publish this notice in a newspaper of general circulation in the county in which the facility is located. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the Agency evidence of the mailing and publication. The notice must include the following:

1) Announcement of a 60-day comment period, in accordance with subsection (e) of this Section, and the name and address of an Agency contact to whom comments must be sent;

2) Announcement of the date, time, and place for a public meeting held in accordance with subsection (d) of this Section;

3) Name and telephone number of the permittee's contact person;

4) Name and telephone number of an Agency contact person;

5) Locations where copies of the modification request and any supporting documents can be viewed and copied; and

6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Agency contact person."

c) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

d) The permittee must hold a public meeting no earlier than 15 days after the publication of the notice required in subsection (b) of this Section and no later than 15 days before the close of the 60-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

e) The public must be provided 60 days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments must be submitted to the Agency contact identified in the public notice.

f) After the conclusion of the 60-day comment period, the Agency must grant or deny the permit modification request, according to the permit modification procedures of 35 Ill. Adm. Code 705. In addition, the Agency must consider and respond to all significant written comments received during the 60-day comment period.

BOARD NOTE: Derived from 40 CFR 270.42(c) (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

SUBPART H: REMEDIAL ACTION PLANS

Section 703.300 Special Regulatory Format

USEPA wrote the federal counterpart to this Subpart H, 40 CFR 270, Subpart H, in a special format to make it easier to understand the regulatory requirements. The Board has adapted the substance of the corresponding federal regulations in this Subpart H to use a more conventional regulatory format, rather than the question-and-answer format used by USEPA.

BOARD NOTE: Derived from 40 CFR 270.79 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.301 General Information

a) Definition of a RAP.

1) A RAP is a special form of RCRA permit that an owner or operator may obtain, instead of a permit issued under 35 Ill. Adm. Code 702 and this Part, to authorize the owner or operator to treat, store, or dispose of hazardous remediation waste (as defined in 35 Ill. Adm. Code 720.110) at a remediation waste management site. A RAP may only be issued for the area of contamination where the remediation wastes to be managed under the RAP originated, or areas in close proximity to the contaminated area, except as allowed in limited circumstances under Section 703.306.

2) The requirements in 35 Ill. Adm. Code 702 and this Part do not apply to RAPs unless those requirements for traditional RCRA permits are specifically required under this Subpart H. The definitions in 35 Ill. Adm. Code 702.110 apply to RAPs.

3) Notwithstanding any other provision of 35 Ill. Adm. Code 702 or this Part, any document that meets the requirements in this Section constitutes a RCRA permit, as defined in 35 Ill. Adm. Code 702.110.

4) A RAP may be either of the following:

A) A stand-alone document that includes only the information and conditions required by this Subpart H; or

B) A part (or parts) of another document that includes information or conditions for other activities at the remediation waste management

site, in addition to the information and conditions required by this Subpart H.

5) If an owner or operator is treating, storing, or disposing of hazardous remediation wastes as part of a cleanup compelled by authorities issued by USEPA or the State of Illinois, a RAP does not affect the obligations under those authorities in any way.

6) If an owner or operator receives a RAP at a facility operating under interim status, the RAP does not terminate the facility's interim status.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.80 (2002).

b) When an owner or operator needs a RAP.

1) Whenever an owner or operator treats, stores, or disposes of hazardous remediation wastes in a manner that requires a RCRA permit under Section 703.121, an owner or operator must obtain either of the following:

A) A RCRA permit according to 35 Ill. Adm. Code 702 and this Part; or

B) A RAP according to this Subpart H.

2) Treatment units that use combustion of hazardous remediation wastes at a remediation waste management site are not eligible for RAPs under this Subpart H.

3) An owner or operator may obtain a RAP for managing hazardous remediation waste at an already permitted RCRA facility. An owner or operator must have the RAP approved as a modification to the owner's or operator's existing permit according to the requirements of Sections 703.270 through 703.273 or Sections 703.280 through 703.283 instead of the requirements in this Subpart H. However, when an owner or operator submits an application for such a modification, the information requirements in Sections 703.281(a)(1), 703.282(a)(4), and 703.283(a)(4) do not apply. Instead, an owner or operator must submit the information required under Section 703.302(d). When the owner's or operator's RCRA permit is modified, the RAP becomes part of the RCRA permit. Therefore, when the owner's or operator's RCRA permit (including the RAP portion) is modified, revoked and reissued, or terminated, or when it expires, the permit will be modified, according to the applicable requirements in Sections 703.270 through 703.273 or 703.280 through 703.283, it will be revoked and reissued, according to the applicable requirements in 35 Ill. Adm. Code 702.186 and Sections 703.270 through 703.273, or it will be terminated, according to the applicable requirements in 35 Ill. Adm. Code

702.186, or the permit will expire, according to the applicable requirements in 35 Ill. Adm. Code 702.125 and 702.161.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.85 (2002).

c) The provisions of 35 Ill. Adm. Code 702.181 apply to RAPs.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.90 (2002). The corresponding federal provision includes an explanation that 40 CFR 270.4 provides that compliance with a permit constitutes compliance with RCRA. This is contrary to Illinois law, under which compliance with a permit does not constitute an absolute defense to a charge of violation of a substantive standard other than a failure to operate in accordance with the terms of a permit. See 35 Ill. Adm. Code 702.181(a) and accompanying Board Note.

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.302 Applying for a RAP

a) Applying for a RAP. To apply for a RAP, an owner or operator must complete an application, sign it, and submit it to the Agency according to the requirements in this Subpart H.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.95 (2002).

b) The person who must obtain a RAP. When a facility or remediation waste management site is owned by one person, but the treatment, storage, or disposal activities are operated by another person, it is the operator's duty to obtain a RAP, except that the owner must also sign the RAP application.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.100 (2002).

c) The person who must sign the application and any required reports for a RAP. Both the owner and the operator must sign the RAP application and any required reports according to 35 Ill. Adm. Code 702.126(a), (b), and (c). In the application, both the owner and the operator must also make the certification required under 35 Ill. Adm. Code 702.126(d)(1). However, the owner may choose the alternative certification under 35 Ill. Adm. Code 702.126(d)(2) if the operator certifies under 35 Ill. Adm. Code 702.126(d)(1).

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.105 (2002).

d) What an owner or operator must include in its application for a RAP. An owner or operator must include the following information in its application for a RAP:

1) The name, address, and USEPA identification number of the remediation waste management site;

2) The name, address, and telephone number of the owner and operator;

3) The latitude and longitude of the site;

4) The United States Geological Survey (USGS) or county map showing the location of the remediation waste management site;

5) A scaled drawing of the remediation waste management site showing the following:

   A) The remediation waste management site boundaries;

   B) Any significant physical structures; and

   C) The boundary of all areas on-site where remediation waste is to be treated, stored, or disposed of;

6) A specification of the hazardous remediation waste to be treated, stored, or disposed of at the facility or remediation waste management site. This must include information on the following:

   A) Constituent concentrations and other properties of the hazardous remediation wastes that may affect how such materials should be treated or otherwise managed;

   B) An estimate of the quantity of these wastes; and

   C) A description of the processes an owner or operator will use to treat, store, or dispose of this waste, including technologies, handling systems, design, and operating parameters an owner or operator will use to treat hazardous remediation wastes before disposing of them according to the land disposal restrictions of 35 Ill. Adm. Code 728, as applicable;

7) Enough information to demonstrate that operations that follow the provisions in the owner's or operator's RAP application will ensure compliance with applicable requirements of 35 Ill. Adm. Code 724, 726, and 728;

8) Such information as may be necessary to enable the Agency to carry out its duties under other federal laws as is required for traditional RCRA permits under Section 703.183(t);

9) Any other information the Agency decides is necessary for demonstrating compliance with this Subpart H or for determining any additional RAP conditions that are necessary to protect human health and the environment.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.110 (2002).

e) If an owner or operator wants to keep this information confidential. 35 Ill. Adm. Code 120 allows an owner or operator to claim as confidential any or all of the information an owner or operator submits to the Agency under this Subpart H. An owner or operator must assert any such claim at the time that the owner or operator submits its RAP application or other submissions by stamping the words "trade secret" in red ink, as provided in 35 Ill. Adm. Code 120.305. If an owner or operator asserts a claim in compliance with 35 Ill. Adm. Code 120.201 at the time it submits the information, the Agency must treat the information according to the procedures in 35 Ill. Adm. Code 120. If an owner or operator does not assert a claim at the time it submits the information, the Agency must make the information available to the public without further notice to the owner or operator. The Agency must deny any requests for confidentiality of an owner's or operator's name or address.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.115 (2002).

f) To whom the owner or operator must submit its RAP application. An owner or operator must submit its application for a RAP to the Agency for approval.

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.120 (2002).

g) If an owner or operator submits its RAP application as part of another document, what the owner or operator must do. If an owner or operator submits its application for a RAP as a part of another document, an owner or operator must clearly identify the components of that document that constitute its RAP application.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.125 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.303 Getting a RAP Approved

a) The process for approving or denying an application for a RAP.

1) If the Agency tentatively finds that an owner's or operator's RAP application includes all of the information required by Section 703.302(d) and that the proposed remediation waste management activities meet the regulatory standards, the Agency must make a tentative decision to approve the RAP application. The Agency must then prepare a draft RAP and

provide an opportunity for public comment before making a final decision on the RAP application, according to this Subpart H.

2) If the Agency tentatively finds that the owner's or operator's RAP application does not include all of the information required by Section 703.302(d) or that the proposed remediation waste management activities do not meet the regulatory standards, the Agency may request additional information from an owner or operator or ask an owner or operator to correct deficiencies in the owner's or operator's application. If an owner or operator fails or refuses to provide any additional information the Agency requests, or to correct any deficiencies in its RAP application, the Agency may either make a tentative decision to deny that owner's or operator's RAP application or to approve that application with certain changes, as allowed under Section 39 of the Act [415 ILCS 5/39]. After making this tentative decision, the Agency must prepare a notice of intent to deny the RAP application ("notice of intent to deny") or to approve that application with certain changes and provide an opportunity for public comment before making a final decision on the RAP application, according to the requirements in this Subpart H.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.130 (2002).

b) What the Agency must include in a draft RAP. If the Agency prepares a draft RAP, the draft must include the following information:

1) The information required under Section 703.302(d)(1) through (d)(6);

2) The following terms and conditions:

A) Terms and conditions necessary to ensure that the operating requirements specified in the RAP comply with applicable requirements of 35 Ill. Adm. Code 724, 726, and 728 (including any recordkeeping and reporting requirements). In satisfying this provision, the Agency may incorporate, expressly or by reference, applicable requirements of 35 Ill. Adm. Code 724, 726, and 728 into the RAP or establish site-specific conditions, as required or allowed by 35 Ill. Adm. Code 724, 726, and 728;

B) The terms and conditions in Subpart F of this Part;

C) The terms and conditions for modifying, revoking and reissuing, and terminating the RAP, as provided in Section 703.304(a); and

D) Any additional terms or conditions that the Agency determines are necessary to protect human health and the environment, including

any terms and conditions necessary to respond to spills and leaks during use of any units permitted under the RAP; and

3) If the draft RAP is part of another document, as described in Section 703.301(a)(4)(B), the Agency must clearly identify the components of that document that constitute the draft RAP.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.135 (2002).

c) What else the Agency must prepare in addition to the draft RAP or notice of intent to deny. Once the Agency has prepared the draft RAP or notice of intent to deny, it must then do the following:

1) Prepare a statement of basis that briefly describes the derivation of the conditions of the draft RAP and the reasons for them, or the rationale for the notice of intent to deny;

2) Compile an administrative record, including the following information:

A) The RAP application, and any supporting data furnished by the applicant;

B) The draft RAP or notice of intent to deny;

C) The statement of basis and all documents cited therein (material readily available at the applicable Agency office or published material that is generally available need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis); and

D) Any other documents that support the decision to approve or deny the RAP; and

3) Make information contained in the administrative record available for review by the public upon request.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.140 (2002).

d) The procedures for public comment on the draft RAP or notice of intent to deny.

1) The Agency must publish notice of its intent as follows:

A) Send notice to an owner or operator of its intention to approve or deny the owner’s or operator’s RAP application, and send an owner or operator a copy of the statement of basis;

B) Publish a notice of its intention to approve or deny the owner's or operator's RAP application in a major local newspaper of general circulation;

C) Broadcast its intention to approve or deny the owner's or operator's RAP application over a local radio station; and

D) Send a notice of its intention to approve or deny the owner's or operator's RAP application to each unit of local government having jurisdiction over the area in which the owner's or operator's site is located, and to each State agency having any authority under State law with respect to any construction or operations at the site.

2) The notice required by subsection (d)(1) of this Section must provide an opportunity for the public to submit written comments on the draft RAP or notice of intent to deny within at least 45 days.

3) The notice required by subsection (d)(1) of this Section must include the following information:

A) The name and address of the Agency office processing the RAP application;

B) The name and address of the RAP applicant, and if different, the remediation waste management site or activity the RAP will regulate;

C) A brief description of the activity the RAP will regulate;

D) The name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft RAP or notice of intent to deny, statement of basis, and the RAP application;

E) A brief description of the comment procedures in this Section, and any other procedures by which the public may participate in the RAP decision;

F) If a hearing is scheduled, the date, time, location, and purpose of the hearing;

G) If a hearing is not scheduled, a statement of procedures to request a hearing;

H) The location of the administrative record, and times when it will be open for public inspection; and

I) Any additional information that the Agency considers necessary or proper.

4) If, within the comment period, the Agency receives written notice of opposition to its intention to approve or deny the owner's or operator's RAP application and a request for a hearing, the Agency must hold an informal public hearing to discuss issues relating to the approval or denial of the owner's or operator's RAP application. The Agency may also determine on its own initiative that an informal hearing is appropriate. The hearing must include an opportunity for any person to present written or oral comments. Whenever possible, the Agency must schedule this hearing at a location convenient to the nearest population center to the remediation waste management site and give notice according to the requirements in subsection (d)(1) of this Section. This notice must, at a minimum, include the information required by subsection (d)(3) of this Section and the following additional information:

A) A reference to the date of any previous public notices relating to the RAP application;

B) The date, time, and place of the hearing; and

C) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.145 (2002).

e) How the Agency must make a final decision on a RAP application.

1) The Agency must consider and respond to any significant comments raised during the public comment period or during any hearing on the draft RAP or notice of intent to deny, and the Agency may revise the draft RAP based on those comments, as appropriate.

2) If the Agency determines that the owner's or operator's RAP includes the information and terms and conditions required in subsection (b) of this Section, then it will issue a final decision approving the owner's or operator's RAP and, in writing, notify the owner or operator and all commenters on the owner's or operator's draft RAP that the RAP application has been approved.

3) If the Agency determines that the owner's or operator's RAP does not include the information required in subsection (b) of this Section, then it will issue a final decision denying the RAP and, in writing, notify the owner

or operator and all commenters on the owner's or operator's draft RAP that the RAP application has been denied.

4) If the Agency's final decision is that the tentative decision to deny the RAP application was incorrect, it must withdraw the notice of intent to deny and proceed to prepare a draft RAP, according to the requirements in this Subpart H.

5) When the Agency issues its final RAP decision, it must refer to the procedures for appealing the decision under subsection (f) of this Section.

6) Before issuing the final RAP decision, the Agency must compile an administrative record. Material readily available at the applicable Agency office or published materials that are generally available and which are included in the administrative record need not be physically included with the rest of the record, as long as it is specifically referred to in the statement of basis or the response to comments. The administrative record for the final RAP must include information in the administrative record for the draft RAP (see subsection (c)(2) of this Section) and the following items:

A) All comments received during the public comment period;

B) Tapes or transcripts of any hearings;

C) Any written materials submitted at these hearings;

D) The responses to comments;

E) Any new material placed in the record since the draft RAP was issued;

F) Any other documents supporting the RAP; and

G) A copy of the final RAP.

7) The Agency must make information contained in the administrative record available for review by the public upon request.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.150 (2002).

f) Administrative appeal of a decision to approve or deny a RAP application.

1) Any commenter on the draft RAP or notice of intent to deny, or any participant in any public hearing on the draft RAP, may appeal the Agency's decision to approve or deny the owner's or operator's RAP application to the Board under 35 Ill. Adm. Code 705.212. Any person that

did not file comments, or did not participate in any public hearings on the draft RAP, may petition for administrative review only to the extent of the changes from the draft to the final RAP decision. Appeals of RAPs may be made to the same extent as for final permit decisions under 35 Ill. Adm. Code 705.201 (or a decision under Section 703.240 to deny a permit for the active life of a RCRA hazardous waste management facility or unit). Instead of the notice required under Subpart D of 35 Ill. Adm. Code 705 and 705.212(c), the Agency must give public notice of any grant of review of a RAP through the same means used to provide notice under subsection (d) of this Section. The notice will include the following information:

A) The public hearing and any briefing schedule for the appeal, as provided by the Board;

B) A statement that any interested person may participate in the public hearing or file public comments or an amicus brief with the Board; and

C) The information specified in subsection (d)(3) of this Section, as appropriate.

2) This appeal is a prerequisite to seeking judicial review of these Agency actions.

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.155 (2002).

g) When a RAP becomes effective. A RAP becomes effective 35 days after the Agency notifies the owner or operator and all commenters that the RAP is approved, unless any of the following is true:

1) The Agency specifies a later effective date in its decision;

2) An owner or operator or another person has appealed the RAP under subsection (f) of this Section (if the RAP is appealed, and the request for review is granted under subsection (f), conditions of the RAP are stayed according to 35 Ill. Adm. Code 705.202 through 705.204); or

3) No commenters requested a change in the draft RAP, in which case the RAP becomes effective immediately when it is issued.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.160 (2002). The corresponding federal provision provides that a RAP is effective 30 days after the Agency notice of approval. The Board has used 35 days to be consistent with the 35 days within which a permit appeal must be filed under Section 40(a)(1) of the Act [415 ILCS 5/40(a)(1)].

h) When an owner or operator may begin physical construction of new units permitted under the RAP. An owner or operator must not begin physical construction of new units permitted under the RAP for treating, storing, or disposing of hazardous remediation waste before receiving a final, effective RAP.

BOARD NOTE: Subsection (h) is derived from 40 CFR 270.165 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.304 How a RAP May Be Modified, Revoked and Reissued, or Terminated

a) After a RAP is issued, how it may be modified, revoked and reissued, or terminated. In a RAP, the Agency must specify, either directly or by reference, procedures for any future modification, revocation and reissuance, or termination of the RAP. These procedures must provide adequate opportunities for public review and comment on any modification, revocation and reissuance, or termination that would significantly change the owner's or operator's management of its remediation waste, or that otherwise merits public review and comment. If the RAP has been incorporated into a traditional RCRA permit, as allowed under Section 703.301(b)(3), then the RAP will be modified according to the applicable requirements in Sections 703.260 through 703.283, revoked and reissued according to the applicable requirements in 35 Ill. Adm. Code 702.186 and Sections 703.270 through 703.273, or terminated according to the applicable requirements of 35 Ill. Adm. Code 702.186.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.170 (2002).

b) Reasons for which the Agency may choose to modify a final RAP.

1) The Agency may modify the owner's or operator's final RAP on its own initiative only if one or more of the following reasons listed in this Section exist. If one or more of these reasons do not exist, then the Agency must not modify a final RAP, except at the request of the owner or operator. Reasons for modification are the following:

A) The owner or operator made material and substantial alterations or additions to the activity that justify applying different conditions;

B) The Agency finds new information that was not available at the time of RAP issuance and would have justified applying different RAP conditions at the time of issuance;

C) The standards or regulations on which the RAP was based have changed because of new or amended statutes, standards, or regulations or by judicial decision after the RAP was issued;

D) If the RAP includes any schedules of compliance, the Agency may find reasons to modify the owner's or operator's compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which an owner or operator has little or no control and for which there is no reasonably available remedy;

E) The owner or operator is not in compliance with conditions of its RAP;

F) The owner or operator failed in the application or during the RAP issuance process to disclose fully all relevant facts, or an owner or operator misrepresented any relevant facts at the time;

G) The Agency has determined that the activity authorized by the owner's or operator's RAP endangers human health or the environment and can only be remedied by modifying the RAP; or

H) The owner or operator has notified the Agency (as required in the RAP and under 35 Ill. Adm. Code 702.152(c)) of a proposed transfer of a RAP.

2) Notwithstanding any other provision in this Section, when the Agency reviews a RAP for a land disposal facility under Section 703.304(f), it may modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in 35 Ill. Adm. Code 702, 703, 705, and 720 through 726.

3) The Agency must not reevaluate the suitability of the facility location at the time of RAP modification unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.175 (2002).

c) Reasons for which the Agency may choose to revoke and reissue a final RAP.

1) The Agency may revoke and reissue a final RAP on its own initiative only if one or more reasons for revocation and reissuance exist. If one or more reasons do not exist, then the Agency must not modify or revoke and reissue a final RAP, except at the owner's or operator's request. Reasons for modification or revocation and reissuance are the same as the reasons listed for RAP modifications in subsections (b)(1)(E) through (b)(1)(H) of this Section if the Agency determines that revocation and reissuance of the RAP is appropriate.

2) The Agency must not reevaluate the suitability of the facility location at the time of RAP revocation and reissuance, unless new information or standards indicate that a threat to human health or the environment exists that was unknown when the RAP was issued.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.180 (2002).

d) Reasons for which the Agency may choose to terminate a final RAP, or deny a renewal application. The Agency may terminate a final RAP on its own initiative or deny a renewal application for the same reasons as those listed for RAP modifications in subsections (b)(1)(E) through (b)(1)(G) of this Section if the Agency determines that termination of the RAP or denial of the RAP renewal application is appropriate.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.185 (2002).

e) Administrative appeal of an Agency decision to approve or deny a modification, reissuance, or termination of a RAP.

1) Any commenter on the modification, reissuance, or termination, or any person that participated in any hearing on these actions, may appeal the Agency's decision to approve a modification, reissuance, or termination of a RAP, according to Section 703.303(f). Any person that did not file comments or did not participate in any public hearing on the modification, reissuance, or termination may petition for administrative review only of the changes from the draft to the final RAP decision.

2) Any commenter on the modification, reissuance, or termination, or any person that participated in any hearing on these actions, may appeal the Agency's decision to deny a request for modification, reissuance, or termination to the Board. Any person that did not file comments or who did not participate in any public hearing on the modification, reissuance, or termination may petition for administrative review only of the changes from the draft to the final RAP decision.

3) The procedure for appeals of RAPs is as follows:

A) The person appealing the decision must send a petition to the Board pursuant to 35 Ill. Adm. Code 101 and 105. The petition must briefly set forth the relevant facts, state the defect or fault that serves as the basis for the appeal, and explain the basis for the petitioner's legal standing to pursue the appeal.

B) The Board has 120 days after receiving the petition to act on it.

C) If the Board does not take action on the petition within 120 days after receiving it, the appeal must be considered denied.

BOARD NOTE: Corresponding 40 CFR 270.190(c)(2) and (c)(3) (2002) allow 60 days for administrative review, which is too short a time for the Board to publish the appropriate notices, conduct public hearings, and conduct its review. Rather, the Board has borrowed the 120 days allowed as adequate time for Board review of permit appeals provided in Section 40(a)(2) of the Act [415 ILCS 5/40(a)(2)].

4) This appeal is a prerequisite to seeking judicial review of the Agency action on the RAP.

BOARD NOTE: Subsection (e) is derived from 40 CFR 270.190 (2002). The corresponding federal provisions provide for informal appeal of an Agency RAP decision. There is no comparable informal procedure under Sections 39 and 40 of the Act [415 ILCS 5/39 and 40].

f) Expiration of a RAP. RAPs must be issued for a fixed term, not to exceed ten years, although they may be renewed upon approval by the Agency in fixed increments of no more than ten years. In addition, the Agency must review any RAP for hazardous waste land disposal five years after the date of issuance or reissuance and the owner or operator or the Agency must follow the requirements for modifying the RAP as necessary to assure that the owner or operator continues to comply with currently applicable requirements in the Act and federal RCRA sections 3004 and 3005 (42 USC 6904 and 6905).

BOARD NOTE: Subsection (f) is derived from 40 CFR 270.195 (2002).

g) How an owner or operator may renew a RAP that is expiring. If an owner or operator wishes to renew an expiring RAP, the owner or operator must follow the process for application for and issuance of RAPs in this Subpart H.

BOARD NOTE: Subsection (g) is derived from 40 CFR 270.200 (2002).

h) What happens if the owner or operator has applied correctly for a RAP renewal but has not received approval by the time its old RAP expires. If the owner or operator has submitted a timely and complete application for a RAP renewal, but the Agency, through no fault of the owner or operator, has not issued a new RAP with an effective date on or before the expiration date of the previous RAP, the previous RAP conditions continue in force until the effective date of the new RAP or RAP denial.

BOARD NOTE: Subsection (h) is derived from 40 CFR 270.205 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.305 Operating Under a RAP

a) The records an owner or operator must maintain concerning its RAP. An owner or operator is required to keep records of the following:

1) All data used to complete RAP applications and any supplemental information that an owner or operator submits for a period of at least three years from the date the application is signed; and

2) Any operating or other records the Agency requires an owner or operator to maintain as a condition of the RAP.

BOARD NOTE: Subsection (a) is derived from 40 CFR 270.210 (2002).

b) How time periods in the requirements in Subpart H of this Part and the RAP are computed.

1) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event. (For example, if a RAP specifies that the owner or operator must close a staging pile within 180 days after the operating term for that staging pile expires, and the operating term expires on June 1, then June 2 counts as day one of the 180 days, and the owner or operator would have to complete closure by November 28.)

2) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event. (For example, if an owner or operator is transferring ownership or operational control of its site, and the owner or operator wishes to transfer its RAP, the new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change. Therefore, if an owner or operator plans to change ownership on January 1, the new owner or operator must submit the revised RAP application no later than October 3, so that the 90th day would be December 31.)

3) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day. (For example, if an owner or operator wishes to appeal the Agency's decision to modify its RAP, then an owner or operator must petition the Board within 35 days after the Agency has issued the final RAP decision. If the 35th day falls on Sunday, then the owner or operator may submit its appeal by the Monday after. If the 35th day falls on July 4th, then the owner or operator may submit its appeal by July 5th.)

4) Whenever a party or interested person has the right to or is required to act within a prescribed period after the service of notice or other paper upon him by mail, four days may not be added to the prescribed term. (For example, if an owner or operator wishes to appeal the Agency's decision to modify its RAP, then the owner or operator must petition the Board within 35 days after the Agency has issued the final RAP decision.)

BOARD NOTE: Subsection (b) is derived from 40 CFR 270.215 (2002). Federal subsections (c) and (d) provide that a RAP is effective 30 days after the Agency notice of approval. The Board has used 35 days to be consistent with the 35 days within which a permit appeal must be filed under Section 40(a)(1) of the Act [415 ILCS 5/40(a)(1)]. Further, federal subsection (d) provides three days for completion of service by mail. The addition of four days (see procedural rule 35 Ill. Adm. Code 101.144(c)) to be consistent with 40 CFR 270.215(d) would exceed the 35 days allowed under Section 40(a)(1) of the Act [415 ILCS 5/40(a)(1)].

c) How an owner or operator may transfer its RAP to a new owner or operator.

1) If an owner or operator wishes to transfer its RAP to a new owner or operator, the owner or operator must follow the requirements specified in its RAP for RAP modification to identify the new owner or operator, and incorporate any other necessary requirements. These modifications do not constitute "significant" modifications for purposes of Section 703.304(a). The new owner or operator must submit a revised RAP application no later than 90 days before the scheduled change along with a written agreement containing a specific date for transfer of RAP responsibility between the owner or operator and the new permittees.

2) When a transfer of ownership or operational control occurs, the old owner or operator must comply with the applicable requirements in Subpart H of 35 Ill. Adm. Code 724 (Financial Requirements) until the new owner or operator has demonstrated that it is complying with the requirements in that Subpart. The new owner or operator must demonstrate compliance with Subpart H of 35 Ill. Adm. Code 724 within six months after the date of the change in ownership or operational control of the facility or remediation waste management site. When the new owner or operator demonstrates compliance with Subpart H of 35 Ill. Adm. Code 724 to the Agency, the Agency must notify the former owner or operator that it no longer needs to comply with Subpart H of 35 Ill. Adm. Code 724 as of the date of demonstration.

BOARD NOTE: Subsection (c) is derived from 40 CFR 270.220 (2002).

d) What the Agency must report about noncompliance with RAPs. The Agency must report noncompliance with RAPs according to the provisions of 40 CFR 270.5, incorporated by reference in 35 Ill. Adm. Code 720.111.

BOARD NOTE: Subsection (d) is derived from 40 CFR 270.225 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.306 Obtaining a RAP for an Off-Site Location

An owner or operator may perform remediation waste management activities under a RAP at a location removed from the area where the remediation wastes originated.

a) An owner or operator may request a RAP for remediation waste management activities at a location removed from the area where the remediation wastes originated if the owner or operator believes such a location would be more protective than the contaminated area or areas in close proximity.

b) If the Agency determines that an alternative location, removed from the area where the remediation waste originated, is more protective than managing remediation waste at the area of contamination or areas in close proximity, then the Agency must approve a RAP for this alternative location.

c) An owner or operator must request the RAP, and the Agency must approve or deny the RAP, according to the procedures and requirements in this Subpart H.

d) A RAP for an alternative location must also meet the following requirements, which the Agency must include in the RAP for such locations:

1) The RAP for the alternative location must be issued to the person responsible for the cleanup from which the remediation wastes originated;

2) The RAP is subject to the expanded public participation requirements in Sections 703.191, 703.192, and 703.193;

3) The RAP is subject to the public notice requirements in 35 Ill. Adm. Code 705.163;

4) The site permitted in the RAP may not be located within 61 meters or 200 feet of a fault that has had displacement in the Holocene time. (The owner or operator must demonstrate compliance with this standard through the requirements in Section 703.183(k).) (See the definitions of terms in 35 Ill. Adm. Code 724.118(a).)

BOARD NOTE: Sites in Illinois are assumed to be in compliance with the requirement of subsection (d)(4) of this Section, since they are not listed in 40 CFR 264, Appendix VI.

e) These alternative locations are remediation waste management sites, and retain the following benefits of remediation waste management sites:

1) Exclusion from facility-wide corrective action under 35 Ill. Adm. Code 724.201; and

2) Application of 35 Ill. Adm. Code 724.101(j) in lieu of Subparts B, C, and D of 35 Ill. Adm. Code 724.

BOARD NOTE: Derived from 40 CFR 270.230 (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

SUBPART I: INTEGRATION WITH MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT) STANDARDS

Section 703.320 Options for Incinerators and Cement and Lightweight Aggregate Kilns to Minimize Emissions from Startup, Shutdown, and Malfunction Events

a) Facilities with existing permits.

1) Revisions to permit conditions after documenting compliance with MACT. The owner or operator of a RCRA-permitted incinerator, cement kiln, or lightweight aggregate kiln, when requesting removal of permit conditions that are no longer applicable according to 35 Ill. Adm. Code 724.440(b) and 726.200(b), may request that the Agency address permit conditions that minimize emissions from startup, shutdown, and malfunction events under any of the following options:

A) Retain relevant permit conditions. Under this option, the Agency must do the following:

i) Retain permit conditions that address releases during startup, shutdown, and malfunction events, including releases from emergency safety vents, as these events are defined in the facility's startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2), incorporated by reference in 35 Ill. Adm. Code 720.111; and

ii) Limit applicability of those permit conditions only to when the facility is operating under its startup, shutdown, and malfunction plan.

B) Revise relevant permit conditions. Under this option, the Agency must do the following:

i) Identify a subset of relevant existing permit requirements, or develop alternative permit requirements, that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

ii) Retain or add these permit requirements to the permit to apply only when the facility is operating under its startup, shutdown, and malfunction plan.

iii) The owner or operator must comply with subsection (a)(3) of this Section.

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(1)(ii) in this subsection (a)(1)(B) in order to comport with Illinois Adminisrative Code codification requirements. The substance of 40 CFR 270.235(a)(1)(ii)(A), (a)(1)(ii)(A)(*1*), and (a)(1)(ii)(A)(*2*) appear as subsections (a)(1)(B), (a)(1)(B)(i), and (a)(1)(B)(ii). The substance of 40 CFR 270.235(a)(1)(ii)(B) has been codified as subsection (a)(3) of this Section. Subsection (a)(1)(B)(iii) of this Section was added to direct attention to subsection (a)(3).

C) Remove permit conditions. Under this option the following are required:

i) The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2), incorporated by reference in 35 Ill. Adm. Code 720.111, has been approved by the Administrator under 40 CFR 63.1206(c)(2)(ii)(B), incorporated by reference in 35 Ill. Adm. Code 720.111; and

ii) The Agency must remove permit conditions that are no longer applicable according to 35 Ill. Adm. Code 724.440(b) and 726.200(b).

2) Addressing permit conditions upon permit reissuance. The owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that has conducted a comprehensive performance test and submitted to the Agency a Notification of Compliance documenting compliance with the

standards of 40 CFR 63, subpart EEE, incorporated by reference in 35 Ill. Adm. Code 720.111§, may request in the application to reissue the permit for the combustion unit that the Agency control emissions from startup, shutdown, and malfunction events under any of the following options:

A) RCRA option A. Under this option, the Agency must do the following:

i) Include, in the permit, conditions that ensure compliance with 35 Ill. Adm. Code 724.445(a) and (c) or 726.202(e)(1) and (e)(2)(C) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, including releases from emergency safety vents; and

ii) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan; or

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(2)(i) in this subsection (a)(2)(A) in order to comport with Illinois Adminisrative Code codification requirements. The substance of 40 CFR 270.235(a)(2)(i)(A), (a)(2)(i)(A)(*1*), and (a)(2)(i)(A)(*2*) appear as subsections (a)(2)(A), (a)(2)(A)(i), and (a)(2)(A)(ii).

B) RCRA option B. Under this option, the Agency must:

i) Include, in the permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan, design, and operating history; and

ii) Specify that these permit requirements apply only when the facility is operating under its startup, shutdown, and malfunction plan.

iii) The owner or operator must comply with subsection (a)(3) of this Section.

BOARD NOTE: The Board found it necessary to deviate from the structure of corresponding 40 CFR 270.235(a)(2)(ii) in this subsection (a)(2)(B) in order to comport with Illinois Adminisrative Code codification requirements. The substance of 40 CFR 270.235(a)(2)(ii)(A), (a)(2)(ii)(A)(*1*), and (a)(2)(ii)(A)(*2*)

appear as subsections (a)(2)(B), (a)(2)(B)(i), and (a)(2)(B)(ii). The substance of 40 CFR 270.235(a)(2)(ii)(B) has been codified as subsection (a)(3) of this Section. Subsection (a)(2)(B)(iii) of this Section was added to direct attention to subsection (a)(3).

C) CAA option. Under this option the following are required:

i) The owner or operator must document that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2), incorporated by reference in 35 Ill. Adm. Code 720.111, has been approved by the Agency under 40 CFR 63.1206(c)(2)(ii)(B), incorporated by reference in 35 Ill. Adm. Code 720.111; and

ii) The Agency must omit from the permit conditions that are not applicable under 35 Ill. Adm. Code 724.440(b) and 726.200(b).

3) Changes that may significantly increase emissions.

A) The owner or operator must notify the Agency in writing of changes to the startup, shutdown, and malfunction plan or changes to the design of the source that may significantly increase emissions of toxic compounds from startup, shutdown, or malfunction events, including releases from emergency safety vents. The owner or operator must notify the Agency of such changes within five days of making such changes. The owner or operator must identify in the notification recommended revisions to permit conditions necessary as a result of the changes to ensure that emissions of toxic compounds are minimized during these events.

B) The Agency may revise permit conditions as a result of these changes to ensure that emissions of toxic compounds are minimized during startup, shutdown, or malfunction events, including releases from emergency safety vents in either of the following ways:

i) Upon permit renewal; or;

ii) If warranted, by modifying the permit under §§ 270.41(a) or 270.42.

BOARD NOTE: The substance of 40 CFR 270.235(a)(1)(ii)(B) and (a)(2)(ii)(B) has been codified as this subsection (a)(3).

b) Interim status facilities.

1) Interim status operations. In compliance with 35 Ill. Adm. Code 725.440 and 726.200(b), the owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Agency a Notification of Compliance documenting compliance with the standards of 40 CFR 63, subpart EEE, incorporated by reference in 35 Ill. Adm. Code 720.111:

A) RCRA option. Under this option, the owner or operator must continue to comply with the interim status emission standards and operating requirements of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions from startup, shutdown, and malfunction events. Those standards and requirements apply only during startup, shutdown, and malfunction events; or

B) CAA option. Under this option, the owner or operator is exempt from the interim status standards of 35 Ill. Adm. Code 725 or 726 relevant to control of emissions of toxic compounds during startup, shutdown, and malfunction events upon submission of written notification and documentation to the Agency that the startup, shutdown, and malfunction plan required under 40 CFR 63.1206(c)(2), incorporated by reference in 35 Ill. Adm. Code 720.111, has been approved by the Agency under 40 CFR 63.1206(c)(2)(ii)(B), incorporated by reference in 35 Ill. Adm. Code 720.111.

2) Operations under a subsequent RCRA permit. When an owner or operator of an incinerator, cement kiln, or lightweight aggregate kiln that is operating under the interim status standards of 35 Ill. Adm. Code 725 or 726 submits a RCRA permit application, the owner or operator may request that the Agency control emissions from startup, shutdown, and malfunction events under any of the options provided by subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of this Section.

BOARD NOTE: Derived from 40 CFR 270.235 (2002). Operating conditions used to determine effective treatment of hazardous waste remain effective after the owner or operator demonstrates compliance with the standards of 40 CFR 63, subpart EEE.

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

Section 703.Appendix A Classification of Permit Modifications

Class	Modifications
	A. General Permit Provisions
1	1. Administrative and informational changes.
1	2. Correction of typographical errors.
1	3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls).
	4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:
1	a. To provide for more frequent monitoring, reporting, or maintenance.
2	b. Other changes.
	5. Schedule of compliance:
1*	a. Changes in interim compliance dates, with prior approval of the Agency.
3	b. Extension of final compliance date.
1*	6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Agency.
1*	7. Changes in ownership or operational control of a facility, provided the procedures of Section 703.260(b) are followed.
1*	8. Changes to remove permit conditions that are no longer applicable (i.e., because the standards upon which they are based are no longer applicable to the facility).
	B. General Facility Standards
	1. Changes to waste sampling or analysis methods:
1	a. To conform with Agency guidance or Board regulations.

1*		b.	To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.
1*		c.	To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.
2		d.	Other changes.
	2.	Changes to analytical quality assurance or quality control plan:	
1		a.	To conform with agency guidance or regulations.
2		b.	Other changes.
1	3.	Changes in procedures for maintaining the operating record.	
2	4.	Changes in frequency or content of inspection schedules.	
	5.	Changes in the training plan:	
2		a.	That affect the type or decrease the amount of training given to employees.
1		b.	Other changes.
	6.	Contingency plan:	
2		a.	Changes in emergency procedures (i.e., spill or release response procedures).
1		b.	Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.
2		c.	Removal of equipment from emergency equipment list.
1		d.	Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.
		Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as the permit modification.	
	7.	CQA plan:	
1		a.	Changes that the CQA officer certifies in the operating record

will provide equivalent or better certainty that the unit components meet the design specifications.

2 b. Other changes.

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change must be reviewed under the same procedures as a permit modification.

C. Groundwater Protection

1. Changes to wells:

2 a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted groundwater monitoring system.

1 b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.

1* 2. Changes in groundwater sampling or analysis procedures or monitoring schedule, with prior approval of the Agency.

1* 3. Changes in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred, with prior approval of the Agency.

2* 4. Changes in point of compliance.

5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs (Alternate Concentration Limits)):

3 a. As specified in the groundwater protection standard.

2 b. As specified in the detection monitoring program.

2 6. Changes to a detection monitoring program as required by 35 Ill. Adm. Code 724.198(j), unless otherwise specified in this Appendix.

7. Compliance monitoring program:

3 a. Addition of compliance monitoring program as required by 35 Ill. Adm. Code 724.198(h)(4) and 724.199.

2 b. Changes to a compliance monitoring program as required by 35 Ill. Adm. Code 724.199(k), unless otherwise specified in this Appendix.

8. Corrective action program:

3 a. Addition of a corrective action program as required by 35 Ill. Adm. Code 724.199(i)(2) and 724.200.

2 b. Changes to a corrective action program as required by 35 Ill. Adm. Code 724.200(h), unless otherwise specified in this Appendix.

D. Closure

1. Changes to the closure plan:

1* a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Agency.

1* b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility or extension of the closure period, with prior approval of the Agency.

1* c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Agency.

1* d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Agency.

2 e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Appendix.

2 f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under 35 Ill. Adm. Code 724.213(d) or (e).

3 2. Creation of a new landfill unit as part of closure.

3. Addition of the following new units to be used temporarily for closure activities:

3		a.	Surface impoundments.
3		b.	Incinerators.
3		c.	Waste piles that do not comply with 35 Ill. Adm. Code 724.350(c).
2		d.	Waste piles that comply with 35 Ill. Adm. Code 724.350(c).
2		e.	Tanks or containers (other than specified in paragraph D(3)(f) below).
1*		f.	Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Agency.
2		g.	Staging piles.

E. Post-Closure

1	1.	Changes in name, address, or phone number of contact in post-closure plan.
2	2.	Extension of post-closure care period.
3	3.	Reduction in the post-closure care period.
1	4.	Changes to the expected year of final closure, where other permit conditions are not changed.
2	5.	Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure.

F. Containers

1. Modification or addition of container units:

3	a.	Resulting in greater than 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
2	b.	Resulting in up to 25 percent increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a).
1	c.	Modification or addition of container units or treatment processes necessary to treat wastes that are restricted from land

disposal to meet some or all of the applicable treatment standards, with prior approval of the Agency. This modification may also involve the addition of new waste codes or narrative description of wastes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

2. Modification of container units without an increased capacity or alteration of the system:

2 a. Modification of a container unit without increasing the capacity of the unit.

1 b. Addition of a roof to a container unit without alteration of the containment system.

3. Storage of different wastes in containers, except as provided in F(4):

3 a. That require additional or different management practices from those authorized in the permit.

2 b. That do not require additional or different management practices from those authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage or treatment of different wastes in containers:

2 a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

1* b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

G. Tanks

1.

3 a. Modification or addition of tank units resulting in greater than 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(c), G(1)(d), and G(1)(e).

2 b. Modification or addition of tank units resulting in up to 25 percent increase in the facility's tank capacity, except as provided in paragraphs G(1)(d) and G(1)(e).

2 c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.

1* d. After prior approval of the Agency, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation.

1* e. Modification or addition of tank units or treatment processes that are necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards, with prior approval of the Agency. This modification may also involve the addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

2 2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit.

1 3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ± 10 percent of the replaced tank provided:

a. The capacity difference is no more than 1500 gallons,

b. The facility's permitted tank capacity is not increased, and

c. The replacement tank meets the same conditions in the permit.

2 4. Modification of a tank management practice.

5. Management of different wastes in tanks:

3 a. That require additional or different management practices, tank design, different fire protection specifications or significantly different tank treatment process from that authorized in the permit, except as provided in paragraph G(5)(c).

2 b. That do not require additional or different management practices or tank design, different fire protection specification, or significantly different tank treatment process than authorized in the permit, except as provided in paragraph G(5)(d).

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

1* c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards. The modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

1 d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

3 1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity.

3 2. Replacement of a surface impoundment unit.

2 3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system.

2 4. Modification of a surface impoundment management practice.

5. Treatment, storage, or disposal of different wastes in surface impoundments:

3 a. That require additional or different management practices or different design of the liner or leak detection system than

authorized in the permit.

2 b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

1 c. That are wastes restricted from land disposal that meet the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), incorporated by reference in 35 Ill. Adm. Code 728.105, and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

1* 6. Modifications of unconstructed units to comply with 35 Ill. Adm. Code 724.321(c), 724.322, 724.323, and 724.326(d).

7. Changes in response action plan:

3 a. Increase in action leakage rate.

3 b. Change in a specific response reducing its frequency or effectiveness.

2 c. Other changes.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles, except those complying with 35 Ill. Adm. Code 724.350(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with 35 Ill. Adm. Code 724.350(c).

1. Modification or addition of waste pile units:

3 a. Resulting in greater than 25 percent increase in the facility's waste pile storage or treatment capacity.

2 b. Resulting in up to 25 percent increase in the facility's waste pile storage or treatment capacity.

2 2. Modification of waste pile unit without increasing the capacity of the unit.

1 3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.

2 4. Modification of a waste pile management practice.

5. Storage or treatment of different wastes in waste piles:

3 a. That require additional or different management practices or different design of the unit.

2 b. That do not require additional or different management practices or different design of the unit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

2 6. Conversion of an enclosed waste pile to a containment building unit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

3 1. Modification or addition of landfill units that result in increasing the facility's disposal capacity.

3 2. Replacement of a landfill.

3 3. Addition or modification of a liner, leachate collection system, leachate detection system, runoff control, or final cover system.

2 4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, runoff control, or final cover system.

2 5. Modification of a landfill management practice.

6. Landfill different wastes:

3 a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.

2 b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

1 c. That are wastes restricted from land disposal that meet the applicable treatment standards. This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

1 d. That are residues from wastewater treatment or incineration, provided the disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5(h)(2), incorporated by reference in 35 Ill. Adm. Code 728.105, and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028).

1* 7. Modification of unconstructed units to comply with 35 Ill. Adm. Code 724.351(c), 724.352, 724.353, 724.354(c), 724.401(c), 724.402, 724.403(c), and 724.404.

8. Changes in response action plan:

3 a. Increase in action leakage rate.

3 b. Change in a specific response reducing its frequency or effectiveness.

2 c. Other changes.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

3 1. Lateral expansion of or other modification of a land treatment unit to increase area extent.

2 2. Modification of runon control system.

3 3. Modify runoff control system.

2 4. Other modification of land treatment unit component specifications or standards required in permit.

5. Management of different wastes in land treatment units:

3 a. That require a change in permit operating conditions or unit design specifications.

2 b. That do not require a change in permit operating conditions or unit design specifications.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

6. Modification of a land treatment unit management practice to:

3 a. Increase rate or change method of waste application.

1 b. Decrease rate of waste application.

2 7. Modification of a land treatment unit management practice to change measures of pH or moisture content or to enhance microbial or chemical reactions.

3 8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops or to modify operating plans for distribution of animal feeds resulting from such crops.

3 9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to 35 Ill. Adm. Code 724.378(g)(2).

3 10. Changes in the unsaturated zone monitoring system that result in a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements.

2 11. Changes in the unsaturated zone monitoring system that do not result in

a change to the location, depth, or number of sampling points or which replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements.

2 12. Changes in background values for hazardous constituents in soil and soil-pore liquid.

2 13. Changes in sampling, analysis, or statistical procedure.

2 14. Changes in land treatment demonstration program prior to or during the demonstration.

1* 15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Agency's prior approval has been received.

1* 16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Agency.

3 17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration.

2 18. Changes in vegetative cover requirements for closure.

L. Incinerators, Boilers and Industrial Furnaces

3 1. Changes to increase by more than 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

2 2. Changes to increase by up to 25 percent any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Agency must require a new trial burn to

substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3 3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units; by adding a primary or secondary combustion unit; by substantially changing the design of any component used to remove HCl/Cl_2, metals, or particulate from the combustion gases; or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

2 4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that will not likely affect the capability of the unit to meet the regulatory performance standards but which will change the operating conditions or monitoring requirements specified in the permit. The Agency may require a new trial burn to demonstrate compliance with the regulatory performance standards.

5. Operating requirements:

3 a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide or hydrocarbon concentration, maximum temperature at the inlet to the PM emission control system, or operating parameters for the air pollution control system. The Agency must require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3 b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.

2 c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.

6. Burning different wastes:

3 a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires

compliance with different regulatory performance standards than specified in the permit, the Agency must require a new trial burn to substantiate compliance with the regulatory performance standards, unless this demonstration can be made through other means.

2 b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.

Note: See Section 703.280(g) for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

2 a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period or the period immediately following the trial burn.

1* b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Agency.

1* c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Agency.

1* d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Agency.

1 8. Substitution of an alternative type of non-hazardous waste fuel that is not specified in the permit.

1* 9. Technology changes needed to meet standards under federal 40 CFR 63 (subpart EEE--National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of Section 703.280(j) are followed.

M. Containment Buildings

1. Modification or addition of containment building units:

3 a. Resulting in greater than 25 percent increase in the facility's containment building storage or treatment capacity.

2 b. Resulting in up to 25 percent increase in the facility's containment building storage or treatment capacity.

2 2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.

3. Replacement of a containment building with a containment building that meets the same design standards provided:

1 a. The unit capacity is not increased.

1 b. The replacement containment building meets the same conditions in the permit.

2 4. Modification of a containment building management practice.

5. Storage or treatment of different wastes in containment buildings:

3 a. That require additional or different management practices.

2 b. That do not require additional or different management practices.

N. Corrective Action

3 1. Approval of a corrective action management unit pursuant to 35 Ill. Adm. Code 724.652.

2 2. Approval of a temporary unit or time extension pursuant to 35 Ill. Adm. Code 724.653.

2 3. Approval of a staging pile or staging pile operating term extension pursuant to 35 Ill. Adm. Code 724.654.

Note: * indicates modifications requiring prior Agency approval.

BOARD NOTE: Derived from 40 CFR 270.42, Appendix I (2002).

(Source: Amended at 27 Ill. Reg. 3496, effective February 14, 2003)

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

PART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: DEFINITIONS AND REFERENCES

Section
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Section
720.120 Rulemaking
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720.140 Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities

Appendix A Overview of 40 CFR, Subtitle C Regulations

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.

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 726, 728, 733, and 739 only, the following terms have the meanings given below:

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

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

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

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

"Agency" means the Illinois Environmental Protection Agency.

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

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

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

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

"Board" means the Illinois Pollution Control Board.

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

Boiler physical characteristics.

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and the unit's combustion chamber and primary energy recovery sections must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery sections (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery sections are joined only by

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

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

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

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

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

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

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

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

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

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

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste 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. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Designated facility" means a hazardous waste treatment, storage, or disposal facility,

Of which any of the following is true:

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

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (2002);

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (2002); or

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

The facility has been designated on the manifest by the generator pursuant to 35 Ill. Adm. Code 722.120.

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

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

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

"Dioxins and furans" or "D/F" means tetra, penta-, hexa-, hepta-, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the Director of the Illinois Environmental Protection Agency.

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

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

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

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

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

> It is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or which are listed in Subpart D of 35 Ill. Adm. Code 721 only for this reason; and
>
> It meets the definition of tank, tank system, container, transport vehicle, or vessel in this Section.

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

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

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

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

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

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

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

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

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

Region VII: Nebraska, Kansas, Missouri, and Iowa

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

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

Region X: Washington, Oregon, Idaho, and Alaska

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

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or

operator had obtained the federal, State, and local approvals or permits necessary to begin physical construction and either of the following had occurred:

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

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

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

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

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

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

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

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment, or destruction of

the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

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

"Facility" means the following:

> All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).
>
> For the purpose of implementing corrective action under 35 Ill. Adm. Code 724.201, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA section 3008(h).
>
> Notwithstanding the immediately-preceding paragraph of this definition, a remediation waste management site is not a facility that is subject to 35 Ill. Adm. Code 724.201, but a facility that is subject to corrective action requirements if the site is located within such a facility.

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

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

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

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

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

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

"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 waste" means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

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

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

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

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

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

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

The facility is not listed as an industrial furnace; or

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

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

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

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

(See Appendix E to 35 Ill. Adm. Code 725 for examples.)

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

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

Blast furnaces;

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

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

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

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

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

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

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

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

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

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

Other relevant factors.

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

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

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

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

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

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

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

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

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

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

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

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

"LDS" means leak detection system.

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

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

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

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

"Manifest" means the shipping document originated and signed by the generator that contains the information required by Subpart B of 35 Ill. Adm. Code 722.

"Manifest document number" means the USEPA twelve digit identification number assigned to the generator plus a unique five-digit document number assigned to the manifest by the generator for recording and reporting purposes.

"Mercury-containing equipment" means mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture.

"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays. [415 ILCS 5/3.283]

"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature

switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]

"Military munitions" means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

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

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

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

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

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation commenced after July 14, 1986; except, however, for purposes of 35 Ill.

Adm. Code 724.293(g)(2) and 725.293(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also "existing tank system.")

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

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

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

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

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

Control of emission of the gaseous combustion products.

(See also "incineration" and "thermal treatment.")

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

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

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

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

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

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

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

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

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

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

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

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

"Point source" means any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other

floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

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

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport. BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

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

"Regional Administrator" means the Regional Administrator for the USEPA Region in which the facility is located or the Regional Administrator's designee.

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

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

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

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

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

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

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

"SIC Code" means Standard Industrial Classification Code as defined in Standard Industrial Classification Manual, incorporated by reference in Section 720.111.

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

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2500 Btu/lb or less of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator that generates less than 1000 kg of hazardous waste in a calendar month.

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

"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 the requirements of 35 Ill. Adm. Code 724.654.

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

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

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

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

"Tank" means a stationary device, designed to contain an accumulation of hazardous waste that is constructed primarily of nonearthen 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 such a temperature control device in compliance with the requirements of 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

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

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

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

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

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

"Treatability study" means the following:

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

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

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

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

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

"Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize the waste, recover energy or material resources from the waste, or render the waste non-hazardous or less hazardous; safer

to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

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

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

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

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

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

"Universal waste" means any of the following hazardous wastes that are managed 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;

Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~

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

Mercury-containing equipment, 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 universal waste; or

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

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

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

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

"USDOT" or "Department of Transportation" means the United States Department of Transportation.

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

"USEPA" or "EPA" or "U.S. EPA" means the United States Environmental Protection Agency.

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

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

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

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

a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in 35 Ill. Adm. Code 721.103; and

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

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

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

"Well injection" (See "underground injection.")

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

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

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

PART 721
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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. 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.

SUBPART A: GENERAL PROVISIONS

Section 721.109 Requirements for Universal Waste

The wastes listed in this Section are exempt from regulation under 35 Ill. Adm. Code 702 703, 722 through 726, and 728, except as specified in 35 Ill. Adm. Code 733, and are therefore not fully regulated as hazardous waste. The following wastes are subject to regulation under 35 Ill. Adm. Code 733:

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

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

c) Thermostats, as described in 35 Ill. Adm. Code 733.104;

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

e) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.106.

(Source: Amended at 27 Ill. Reg. 12760, effective July 17, 2003)

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

PART 724
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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.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope, and Applicability

a) The purpose of this Part is to establish 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) The requirements of this Part apply 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 (16 USC 1431-1434, 33 USC 1401) 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 [415 ILCS 5/21(f)] 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) The requirements of this Part apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act [415 ILCS 5/12(g)] 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) The requirements of this Part apply 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) The requirements of this Part do not apply to the following:

1) The owner or operator of a facility permitted by the Agency under Section 21 of the Environmental Protection Act [415 ILCS 5/21] 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 721.105.

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 722.134.

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) of this Section, 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 of this Part.

C) Any person that is covered by subsection (g)(8)(A) of this Section 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 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 the requirements of 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) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~

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

E) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.

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 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 726, and 728.

j) The requirements of Subparts B, C, and D of this Part 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 of this Part, and Section 724.201 do apply to the facility subject to the traditional RCRA permit.) Instead of the requirements of Subparts B, C, and D of this Part, owners or operators of remediation waste management sites must comply with the following requirements:

1) The owner or operator must obtain a USEPA identification number by applying to USEPA using USEPA Form 8700-12;

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. Where 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 the requirements of 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 of this Part, 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 the requirements of 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) of this Section; and

13) The owner or operator must maintain records documenting compliance with subsections (j)(1) through (j)(12) of this Section.

(Source: Amended at 27 Ill. Reg. 3725, effective February 14, 2003)

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.

SUBPART A: GENERAL PROVISIONS

Section 725.101 Purpose, Scope, and Applicability

a) The purpose of this Part is to establish 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.

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 that have fully complied with the requirements for interim status under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.) and 35 Ill. Adm. Code 703, until either a permit is issued under Section 3005 of the Resource Conservation and Recovery Act or Section 21(f) of the Environmental Protection Act, or until applicable closure and post-closure care responsibilities under this Part are fulfilled, 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 or that have failed to file Part A of the Permit Application, as required by 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 after November 19, 1980, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.

BOARD NOTE: As stated in Section 3005(a) of RCRA, 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 with a permit. Section 3005(e) of RCRA 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. 35 Ill. Adm. Code 703.140 et seq. provide that a permit is deemed issued under Section 21(f)(1) of the Environmental Protection Act under conditions similar to federal interim status.

c) The requirements of this Part do not apply to:

1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 USC 1431-1434; 33 USC 1401);

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) of this Section.

2) This subsection 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 35 Ill. Adm. Code 704.Subpart F.

4) This subsection 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 721.105;

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 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 35 Ill. Adm. Code 739;

7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;

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 35 Ill. Adm. Code 728.Table T) or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator shall comply with the requirements set out in Section 725.117(b);

11) Immediate response:

A) Except as provided in subsection (c)(11)(B) of this Section, 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 shall comply with all applicable requirements of Subparts C and D of this Part.

C) Any person that is covered by subsection (c)(11)(A) of this Section 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 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 shall 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) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~

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

E) Mercury-containing equipment as described in 35 I.. Adm. Code 733.106.

d) The following hazardous wastes must not be managed at facilities subject to regulation under this Part: hazardous waste numbers F020, F021, F022, F023, F026, or F027 unless:

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 of this Part;

4) The waste is burned in incinerators that are certified pursuant to 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 pursuant to 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 726, and 728.

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 24 Ill. Reg. 9575, effective June 20, 2000)

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

PART 728
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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 R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amended in R90-11 at 15 Ill. Reg. 11937, effective August 12, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7685, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17706, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1964, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9204, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9623, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1296, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9181, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6687, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 13045, effective July 17, 2003.

SUBPART A: GENERAL

Section 728.101 Purpose, Scope, and Applicability

a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721, the requirements of this Part apply to persons that generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage, and disposal facilities.

c) Restricted wastes may continue to be land disposed as follows:

1) Where a person has been granted an extension to the effective date of a prohibition under Subpart C of this Part or pursuant to Section 728.105, with respect to those wastes covered by the extension;

2) Where a person has been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;

3) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited under this Part is not prohibited if the following is true of the waste:

A) The waste is disposed into a nonhazardous or hazardous waste injection well, as defined in 35 Ill. Adm. Code 704.106(a); and

B) The waste does not exhibit any prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721 at the point of injection.

4) A waste that is hazardous only because it exhibits a characteristic of hazardous waste and which is otherwise prohibited under this Part is not prohibited if the waste meets any of the following criteria, unless the waste is subject to a specified method of treatment other than DEACT in Section 728.140 or is D003 reactive cyanide:

A) Any of the following is true of either treatment or management of the waste:

i) The waste is managed in a treatment system that subsequently discharges to waters of the United States pursuant to a permit issued under 35 Ill. Adm. Code 309;

ii) The waste is treated for purposes of the pretreatment requirements of 35 Ill. Adm. Code 307 and 310; or

iii) The waste is managed in a zero discharge system engaged in Clean Water Act (CWA)-equivalent treatment, as defined in Section 728.137(a); and

B) The waste no longer exhibits a prohibited characteristic of hazardous waste at the point of land disposal (i.e., placement in a surface impoundment).

d) This Part does not affect the availability of a waiver under Section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC 9621(d)(4)).

e) The following hazardous wastes are not subject to any provision of this Part:

1) Waste generated by small quantity generators of less than 100 kg of non-acute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in 35 Ill. Adm. Code 721.105;

2) Waste pesticide that a farmer disposes of pursuant to 35 Ill. Adm. Code 722.170;

3) Waste identified or listed as hazardous after November 8, 1984, for which USEPA has not promulgated a land disposal prohibition or treatment standard;

4) De minimis losses of waste that exhibits a characteristic of hazardous waste to wastewaters are not considered to be prohibited waste and are defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; rinsate from empty containers or from containers that are rendered empty by that rinsing; and laboratory waste that does not exceed one percent of the total flow of wastewater into the facility's headworks on an annual basis, or with a combined annualized average concentration not exceeding one part per million (ppm) in the headworks of the facility's wastewater treatment or pretreatment facility; or

5) Land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012 through D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation under the CWA (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headworks does not exceed one percent or that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks.

f) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) is exempt from Sections 728.107 and 728.150 for the hazardous wastes listed below. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.

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

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

3) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~

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

5) Mercury-containing equipment as described in 35 Ill. Adm. Code 733.106.

g) This Part is cumulative with the land disposal restrictions of 35 Ill. Adm. Code 729. The Environmental Protection Agency (Agency) must not issue a wastestream authorization pursuant to 35 Ill. Adm. Code 709 or Section 22.6 or 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 or 39(h)] unless the waste meets the requirements of this Part as well as 35 Ill. Adm. Code 729.

(Source: Amended at 27 Ill. Reg. 13045, effective July 17, 2003)

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

PART 733
STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

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SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

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733.181 Factors for Petitions to Include Other Wastes

AUTHORITY: Implementing Sections 7.2, 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, 22.23a, and 27].

SOURCE: Adopted in R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7650, effective April 15, 1998; amended in R99-15 at 23 Ill. Reg. 9502, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9874, effective June 20, 2000.

SUBPART A: GENERAL

Section 733.101 Scope

a) This Part establishes requirements for managing the following:

1) Batteries, as described in Section 733.102;

2) Pesticides, as described in Section 733.103;

3) Thermostats, as described in Section 733.104; ~~and~~

4) Lamps, as described in Section 733.105; and ~~.~~

5) Mercury-containing equipment, as described in 733.106.

b) This Part provides an alternative set of management standards in lieu of regulation under 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728.

(Source: Amended at 24 Ill. Reg. 9874, effective June 20, 2000.)

Section 733.106 Applicability--Mercury-Containing Equipment

a) Mercury-containing equipment covered under this Part. The requirements of this Part apply to persons managing mercury-containing equipment as described in Section 733.109, except those listed in subsection (b) of this Section.

b) Mercury-containing equipment not covered under this Part. The requirements of this Part do not apply to persons managing the following mercury-containing equipment:

1) Mercury-containing equipment that is not yet a waste under 35 Ill. Adm. Code 721. Subsection (c) of this Section describes when mercury-containing equipment becomes a waste.

2) Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in 35 Ill. Adm. Code 721.Subpart C.

c) Generation of waste mercury-containing equipment.

1) Used mercury-containing equipment becomes a waste on the day it is discarded.

2) Unused mercury-containing equipment becomes a waste on the day the handler decides to discard it.

Section 733.109 Definitions

"Battery" means a device consisting of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy.

An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Sections 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 purposes of managing that category of universal waste.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 through 136y).

"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.

"Lamp" or "universal waste lamp" is defined as 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 infra-red regions of the electromagnetic spectrum. Common examples of universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this Section) that accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

"Mercury-containing equipment" means mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture.

"Mercury-containing lamp" means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.
BOARD NOTE: The definition of "mercury-containing lamp" was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

"Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. Mercury relay includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays. [415 ILCS 5/3.283]

"Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. [415 ILCS 5/3.284]

"On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads 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 that person controls and to which the public does not have access, are also considered on-site property.

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

It is a new animal drug under Section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 USC 321(v)), incorporated by reference in 35 Ill. Adm. Code 720.111;

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA Section 360b(j), incorporated by reference in 35 Ill. Adm. Code 720.111, to be an exempted new animal drug; or

It is an animal feed under FFDCA Section 201(w) (21 USC 321(w)), incorporated by reference in 35 Ill. Adm. Code 720.111, 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 273.6 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug". This is very similar to the language of Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC 136(u)). The three exceptions, taken together, appear intended not to include as

"pesticide" any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the definiteness required under Illinois law.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this Section) that does not accumulate 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment, calculated collectively) at any time.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with the requirements of Section 733.113(c)(2) or 733.133(c)(2).

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of this Part:

Batteries, as described in Section 733.102;

Pesticides, as described in Section 733.103;

Thermostats, as described in Section 733.104; ~~and~~

Lamps, as described in Section 733.105; and ~~.~~

Mercury-containing equipment, as described in Section 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 universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Universal waste handler does not mean:

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

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

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

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

(Source: Renumbered from Section 733.106 and amended at 24 Ill. Reg. 9874, effective June 20, 2000)

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.113 Waste Management

a) Universal waste batteries. A small quantity handler of universal waste shall manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

A) Sorting batteries by type;

B) Mixing battery types in one container;

C) Discharging batteries so as to remove the electric charge;

D) Regenerating used batteries;

E) Disassembling batteries or battery packs into individual batteries or cells;

F) Removing batteries from consumer products; or

G) Removing electrolyte from batteries.

3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.

A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);

3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or

4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

c) Universal waste thermostats and mercury-containing equipment. A small quantity handler of universal waste shall manage universal waste thermostats and mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat or mercury-containing equipment, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler follows each of the following procedures:

A) It removes the ampules in a manner designed to prevent breakage of the ampules;

B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

G) It stores removed ampules in closed, non-leaking containers that are in good condition; and

H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) Required hazardous waste determination and further waste management.

A) A small quantity handler of universal waste that removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:

i) Mercury or clean-up residues resulting from spills or leaks; or

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment).

B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and shall manage it as subject to 35 Ill. Adm. Code 722.

C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

d) Lamps. A small quantity handler of universal waste shall manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A small quantity handler of universal waste lamps shall contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A small quantity handler of universal waste lamps shall immediately clean up and place in a container any lamp that is broken, and the small quantity handler shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

3) Small quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:

A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;

B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

i) Name and address of the handler;

ii) Estimated monthly amount of lamps crushed; and

iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;

C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;

D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a].

(Source: Amended at 24 Ill. Reg. 9874, effective June 20, 2000)

Section 733.114 Labeling and Marking

A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Batteries", "Waste Batteries", or "Used Batteries";

b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly as follows:

1) The label that was on or accompanied the product as sold or distributed; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides";

c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:

1) Pesticide labeling:

A) The label that was on the product when purchased, if still legible;

B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required under USDOT regulation 49 CFR 172; or

C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides";

d) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostats", or "Waste Mercury Thermostats", or "Used Mercury Thermostats"; and

e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with one of the following phrases: "Universal Waste--Lamps", "Waste Lamps" or "Used Lamps".

f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste- Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(Source: Amended at 24 Ill. Reg. 9874, effective June 20, 2000)

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.132 Notification

a) Written notification of universal waste management.

1) Except as provided in subsections (a)(2) and (a)(3) of this Section, a large quantity handler of universal waste shall have sent written notification of universal waste management to the Agency, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

2) A large quantity handler of universal waste that has already notified USEPA or the Agency of its hazardous waste management activities and has received a USEPA Identification Number is not required to renotify under this Section.

3) A large quantity handler of universal waste that manages recalled universal waste pesticides, as described in Section 733.103(a)(1), and that has sent notification to USEPA or the Agency, as required by 40 CFR 165, is not required to notify for those recalled universal waste pesticides under this Section.

b) This notification must include:

1) The universal waste handler's name and mailing address;

2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

3) The address or physical location of the universal waste management activities;

4) A list of all of the types of universal waste managed by the handler (e.g, batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment); and

5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g, batteries, pesticides, thermostats, ~~or~~ lamps, or mercury-containing equipment) the handler is accumulating above this quantity.

BOARD NOTE: At 60 Fed. Reg. 25520-21 (May 11, 1995), USEPA explained the generator or consolidation point may use USEPA Form 8700-12 for notification. (To obtain USEPA Form 8700-12 call the Agency at 217-782-6761.) USEPA further explained that it is not necessary for the handler to aggregate the amounts of waste at multiple non-contiguous sites for the purposes of the 5,000 kilogram determination.

(Source: Amended at 24 Ill. Reg. 9874, effective June 20, 2000)

Section 733.133 Waste Management

a) Universal waste batteries. A large quantity handler of universal waste shall manage universal waste batteries in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

A) Sorting batteries by type;

B) Mixing battery types in one container;

C) Discharging batteries so as to remove the electric charge;

D) Regenerating used batteries;

E) Disassembling batteries or battery packs into individual batteries or cells;

F) Removing batteries from consumer products; or

G) Removing electrolyte from batteries.

3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.

A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A large quantity handler of universal waste shall manage universal waste pesticides in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2) A container that does not meet the requirements of subsection (b)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);

3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or

4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

c) Universal waste thermostats and mercury-containing equipment. A large quantity handler of universal waste shall manage universal waste thermostats and mercury-containing equipment in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste shall contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat and/or equipment, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler follows each of the following procedures:

A) It removes the ampules in a manner designed to prevent breakage of the ampules;

B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;

E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

G) It stores removed ampules in closed, non-leaking containers that are in good condition; and

H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.

3) Required hazardous waste determination and further waste management.

A) A large quantity handler of universal waste that removes mercury-containing ampules from thermostats or mercury-containing equipment shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:

i) Mercury or clean-up residues resulting from spills or leaks; or

ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units or mercury-containing equipment).

B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and is subject to 35 Ill. Adm. Code 722.

C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

d) Lamps. A large quantity handler of universal waste shall manage lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1) A large quantity handler of universal waste lamps shall contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2) A large quantity handler of universal waste lamps shall immediately clean up and place in a container any lamp that is broken, and the large quantity handler shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Any container used must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

3) Large quantity handlers of universal waste lamps may treat those lamps for volume reduction at the site where they were generated under the following conditions:

A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m^3 when measured on the basis of time weighted average over an 8-hour period;

B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

i) Name and address of the handler;

ii) Estimated monthly amount of lamps crushed; and

iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;

C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;

D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and

F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a].

(Source: Amended at 24 Ill. Reg. 9874, effective June 20, 2000)

Section 733.134 Labeling and Marking

A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste-Batteries”; or “Waste Batteries”; or “Used Batteries”;

b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:

1) The label that was on or accompanied the product as sold or distributed; and

2) The words “Universal Waste-Pesticides” or “Waste-Pesticides”;

c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:

1) Pesticide labeling:

A) The label that was on the product when purchased, if still legible;

B) If using the labels described in subsection (c)(1)(A) of this Section is not feasible, the appropriate label as required under the USDOT regulation 49 CFR 172; or

C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) of this Section is not feasible, another label prescribed or designated by the pesticide collection program; and

2) The words "Universal Waste-Pesticides" or "Waste-Pesticides";

d) Universal waste thermostats (i.e., each thermostat) or a container or tank in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostats", or "Waste Mercury Thermostats", or "Used Mercury Thermostats"; and

e) Each lamp or a container or package in which such lamps are contained must be labeled or clearly marked with any one of the following phrases: "Universal Waste-Lamps", "Waste Lamps" or "Used Lamps".

f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste- Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(Source: Amended at 24 Ill. Reg. 9874, effective June 20, 2000)

R2005-008, RECEIVED AT CLERK'S OFFICE, OCTOBER 19, 2004

Public Act 093-0964

SB2551 Enrolled LRB093 20824 MKM 46749 b

AN ACT in relation to public health and environmental protection.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Environmental Protection Act is amended by adding Sections 3.283, 3.284, and 22.23b as follows:

(415 ILCS 5/3.283 new)

Sec. 3.283. Mercury relay. "Mercury relay" means a product or device, containing mercury added during its manufacture, that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays.

(415 ILCS 5/3.284 new)

Sec. 3.284. Mercury switch. "Mercury switch" means a product or device, containing mercury added during its manufacture, that opens or closes an electrical circuit or gas valve, including, but not limited to, mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors.

(415 ILCS 5/22.23b new)

Sec. 22.23b. Mercury and mercury-added products.

(a) Beginning July 1, 2005, no person shall purchase or accept, for use in a primary or secondary school classroom, bulk elemental mercury, chemicals containing mercury compounds, or instructional equipment or materials containing mercury added during their manufacture. This subsection (a) does not apply to: (i) other products containing mercury added during their manufacture that are used in schools and (ii) measuring devices used as teaching aids, including, but not limited to, barometers, manometers, and thermometers, if no adequate mercury-free substitute exists.

(b) Beginning July 1, 2007, no person shall sell, offer to sell, distribute, or offer to distribute a mercury switch or mercury relay individually or as a product component. For a product that contains one or more mercury switches or mercury relays as a component, this subsection (b) is applicable to each component part or parts and not the entire product. This subsection (b) does not apply to the following:

(1) Mercury switches and mercury relays used in medical diagnostic equipment regulated under the federal Food, Drug, and Cosmetic Act.

(2) Mercury switches and mercury relays used at electric generating facilities.

(3) Mercury switches in thermostats used to sense and control room temperature.

(4) Mercury switches and mercury relays required to be used under federal law or federal contract specifications.

(5) A mercury switch or mercury relay used to replace a mercury switch or mercury relay that is a component in a larger product in use prior to July 1, 2007, and one of the following applies:

(A) The larger product is used in manufacturing; or

(B) The mercury switch or mercury relay is integrated and not physically separate from other components of the larger product.

(c) No later than July 1, 2006, the manufacturer of a mercury switch or mercury relay, or a scientific instrument or piece of instructional equipment containing mercury added

during its manufacture, may apply to the Agency for an exemption from the provisions of this Section for one or more specific uses of the switch, relay, instrument, or piece of equipment by filing a written petition with the Agency. The Agency may grant an exemption, with or without conditions, if the manufacturer demonstrates the following:

(1) A convenient and widely available system exists for the proper collection, transportation, and processing of the switch, relay, instrument, or piece of equipment at the end of its useful life; and

(2) The specific use or uses of the switch, relay, instrument, or piece of equipment provides a net benefit to the environment, public health, or public safety when compared to available nonmercury alternatives.

Before approving any exemption under this subsection (c) the Agency must consult with other states to promote consistency in the regulation of products containing mercury added during their manufacture. Exemptions shall be granted for a period of 5 years. The manufacturer may request renewals of the exemption for additional 5-year periods by filing additional written petitions with the Agency. The Agency may renew an exemption if the manufacturer demonstrates that the criteria set forth in paragraphs (1) and (2) of this subsection (c) continue to be satisfied. All petitions for an exemption or exemption renewal shall be submitted on forms prescribed by the Agency.

The Agency must adopt rules for processing petitions submitted pursuant to this subsection (c). The rules shall include, but shall not be limited to, provisions allowing for the submission of written public comments on the petitions.

(d) No later than January 1, 2005, the Agency must submit to the Governor and the General Assembly a report that includes the following:

(1) An evaluation of programs to reduce and recycle mercury from mercury thermostats and mercury vehicle components; and

(2) Recommendations for altering the programs to make

them more effective. In preparing the report the Agency may seek information from and consult with, businesses, trade associations, environmental organizations, and other government agencies.

(e) Mercury switches and mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture, are hereby designated as categories of universal waste subject to the streamlined hazardous waste rules set forth in Title 35 of the Illinois Administrative Code, Subtitle G, Chapter I, Subchapter c, Part 733 ("Part 733"). Within 60 days of the effective date of this amendatory Act of the 93rd General Assembly, the Agency shall propose, and within 180 days of receipt of the Agency's proposal the Board shall adopt, rules that reflect this designation and that prescribe procedures and standards for the management of such items as universal waste.

If the United States Environmental Protection Agency adopts streamlined hazardous waste regulations pertaining to the management of mercury switches or mercury relays, or scientific instruments or instructional equipment containing mercury added during their manufacture, or otherwise exempts such items from regulation as hazardous waste, the Board shall adopt equivalent rules in accordance with Section 7.2 of this Act within 180 days of adoption of the federal regulations. The equivalent Board rules may serve as an alternative to the rules adopted under subsection (1) of this subsection (e).

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 8/20/2004

Floor Actions

Date	Action
8/20/2004	Public Act 093-0964

Federal Register

Wednesday,

June 12, 2002

Part IV

Environmental Protection Agency

40 CFR Part 260 et al.

Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes and Mercury-Containing Equipment; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, 264, 268, 270, and 273

[FRL–7217–7]

RIN 2050–AE52

Hazardous Waste Management System; Modification of the Hazardous Waste Program; Cathode Ray Tubes and Mercury-Containing Equipment

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Many used cathode ray tubes (CRTs) and items of mercury-containing equipment are currently classified as characteristic hazardous wastes under the Resource Conservation and Recovery Act (RCRA). They are therefore subject to the hazardous waste regulations of RCRA Subtitle C unless they come from a household or a conditionally exempt small quantity generator. Today, the Environmental Protection Agency (EPA) proposes and seeks comment on an exclusion from the definition of solid waste which would streamline RCRA management requirements for used cathode ray tubes (CRTs) and glass removed from CRTs sent for recycling. In today's notice, the Agency also clarifies the status of used CRTs sent for reuse. In addition, EPA proposes and seeks comment on streamlining management requirements for used mercury-containing equipment by adding it to the federal list of universal wastes.

DATES: To make sure EPA considers your comments or suggested revisions to this proposal, they must be postmarked on or before August 12, 2002.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–2002–CRTP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA address listed in the **SUPPLEMENTARY INFORMATION** section below. Comments may also be submitted electronically to *rcra-docket@epamail.epa.gov.* See the beginning of the **SUPPLEMENTARY INFORMATION** section for instructions on electronic submissions.

Public comments and supporting materials are available for viewing in the RCRA Docket and Information Center (RIC) located at Crystal Gateway 1, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from the regulatory docket at no charge. Additional copies cost $0.15/page. The index is available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing it.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund/EPCRA/UST Call Center at (800) 424–9346 (toll free) or TDD (800) 553–7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this rulemaking, contact Ms. Marilyn Goode, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (703) 308–8800, electronic mail: *goode.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Comment Submission

You may submit comments electronically through the Internet to: rcra-docket@epa.gov. You should identify comments in electronic format with the docket number F–2002–CRTP–FFFFF. All electronic comments must be submitted as an ASCII (text) file avoiding the use of special characters and any form of encryption. If possible, EPA's Office of Solid Waste (OSW) would also like to receive an additional copy of the comments on disk in WordPerfect 6.1 file format. Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue NW, Washington, DC 20460. If possible, please provide two non-CBI summaries of any CBI information. Some of the supporting documents in the docket also are available in electronic format on the Internet at URL: *http://www.epa.gov/epaoswer/hazwaste/recycle/electron/crt.htm.*

EPA will keep the official record for this action in paper form. Accordingly, we will transfer all comments received electronically into paper form and place them in the official record, which also will include all comments submitted directly in writing. The official administrative file is the paper file maintained at the RCRA Docket, the address of which is in **ADDRESSES** at the beginning of this document.

EPA's responses to public comments, whether the comments are received in written or electronic format, will be published in the **Federal Register** or in a response to comments document placed in the public docket. We will not reply immediately to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

You may view public comments and the supporting materials for the issues and memoranda discussed below in the RCRA Information Center (RIC) located at Crystal Gateway 1, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review file materials, we recommend that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any file maintained at the RCRA Docket at no charge. Additional copies cost $0.15 per page.

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I. Legal Authority

These regulations are proposed under the authority of sections 2002(a), 3001, 3002, 3004, and 3006 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), and as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912(a), 6921, 6922, 6924, and 6926.

II. List of Abbreviations and Acronyms

CES Computers and Electronics Subcommittee
CFR Code of Federal Regulations
CRT Cathode Ray Tube
CSI Common Sense Initiative
DOT Department of Transportation
FPD Flat Panel Display
HDTV High Definition Television
LCD Liquid Crystal Display
LDR
LQHUW Large Quantity Handler of Universal Waste
OECD Organization for Economic Cooperation and Development
OSHA Occupational Safety and Health Administration
RCRA Resource Conservation and Recovery Act
SQHUW Small Quantity Handler of Universal Waste
TC Toxicity Characteristic
TCLP Toxicity Characteristic Leaching Procedure
TSDF Treatment, Storage and Disposal Facility
TV Television
USWAG Utility Solid Waste Activities Group
UWR Universal Waste Rule
WTE Waste-to-Energy

III. Cathode Ray Tubes

A. What Is The Purpose of EPA's Proposal?

Technological advances in information management and communication have improved the quality of people's lives in countless ways. However, our growing use of electronic products at home and in the workplace has given us a new environmental challenge: Electronics waste. Today's proposed rule is an important step towards meeting the challenge of managing electronics waste in a way that is environmentally sound while at the same time encouraging the reuse and recycling of these materials.

EPA estimates that about 57 million televisions and computers are sold annually to households and businesses in the United States. These purchasers often do not discard older models when buying newer versions of the same products. Consumers (both business and household) frequently store their retired products. Experts agree that the average household may have between two and three units in storage. The numbers of units (mainly computers) stored by businesses are of course much greater. In total, approximately 20 to 24 million computers and televisions are added to storage each year. Over the next decade, storage is expected to increase at a faster rate because of advances in digital technology for televisions. Just as advances in computer speed and software have made older computers uneconomical to repair, newer digital broadcast standards are likely to reduce the repair and resale value of older televisions.

Recycling glass from computers and televisions is still largely a new industry. However, the number of units available for reuse or recycling is growing rapidly, and state and industry initiatives to promote recycling are increasing. EPA is eager to see this industry grow, in part because reusing and recycling these materials saves valuable natural resources and avoids their disposal in landfills and incinerators. The Agency must, of course, assure that materials under RCRA jurisdiction are managed in a way that protects human health and the environment.

Today, the Agency seeks comment on streamlining management requirements for used CRTs and processed CRT glass by proposing a conditional exclusion from the definition of solid waste for these materials when they are recycled (see proposed 40 CFR 261.4(a)(23) and 261.4(b)(39)). The purpose of these proposed simplified requirements is to encourage greater reuse, recycling, and better management of this growing wastestream, while maintaining necessary environmental protection. We are also soliciting comment on certain conditions intended to ensure that the materials are handled as commodities rather than wastes.

B. What Are Cathode Ray Tubes?

Cathode ray tubes (CRTs) are vacuum tubes, made primarily of glass, which constitute the video display components of televisions and computer monitors. CRT sizes are typically measured from one corner; the diagonal of a CRT display generally ranges from 1 to 38 inches. Other types of CRTs include medical, automotive, oscilloscope, and appliance CRTs, which are typically 12 inches diagonal or smaller, while military and aircraft control tower CRTs may be much larger.

CRTs are built of a specialized glass that often contains lead. They consist of four major parts: A glass panel (faceplate); a shadow mask; a glass funnel; and a glass neck which houses the electron gun. The glass panel is the front of the CRT that the viewer sees when looking at a TV or computer screen. The shadow mask is a thin metal sheet with holes that is located immediately behind the glass panel. Attached to the back of the glass panel is the glass funnel. The panel and funnel are joined with the shadow mask and sealed together with a low-temperature glass frit, consisting of solder glass containing organic binders. The back end of the CRT is the glass neck that holds the electron gun. This gun produces the electrons that strike the glass panel, resulting in viewable images on the display surface. A CRT is assembled into a monitor, a unit that includes several other parts, including a plastic cabinet, electromagnetic shields, circuit boards, connectors, and cabling.

C. Why Are Cathode Ray Tubes an Environmental Concern?

Under Subtitle C of RCRA, a solid waste is a hazardous waste if it exhibits one or more of the characteristics of ignitability, corrosivity, reactivity, or toxicity in 40 CFR part 261, subpart C, or if it is a listed hazardous waste in part 261, subpart D. The RCRA regulations set forth requirements for hazardous waste generators, transporters, and owners and operators of treatment, storage, and disposal facilities (TSDFs). EPA regulations also contain exclusions for certain wastes from the definition of solid waste or hazardous waste (40 CFR 261.4)(a) and (b)). In addition, EPA has developed streamlined rules for particular wastes, including recyclable wastes (40 CFR part 266) and universal wastes such as batteries, pesticides, thermostats, and lamps that are widely generated by different industries (40 CFR part 273).

Manufacturers generally use significant quantities of lead to make color cathode ray tubes. Televisions and color computer monitors contain an average of four pounds of lead (the exact amount depends on size and make). Lead is present in the panel glass, funnel, neck, and glass frit of color CRTs, with the highest concentrations usually found in the frit and funnel glass. The amount of lead used in some manufacturing processes of CRTs appears to be decreasing. However, according to a study of CRTs published by the University of Florida, the average concentration of lead in leachate from

colored CRT glass generated through EPA's toxicity characteristic leaching procedure (TCLP) was 22.2 milligrams per liter (mg/l). This level is considerably above the toxicity characteristic regulatory level of 5 milligrams per liter that is used to classify lead-containing wastes as hazardous (40 CFR 261.24(b)). For monochrome CRTs, the average lead leachate concentration was 0.03 mg/l. These data appear to indicate that black and white monitors do not generally fail the TC. The faceplate also does not usually fail the TC.

Other hazardous constituents sometimes present in CRT glass are mercury, cadmium, and arsenic. However, these constituents are found in very low concentrations that are unlikely to exceed the TC concentration limits (*see Characterization of Lead Leachability from Cathode Ray Tubes Using the Toxicity Characteristic Leaching Procedure,* T.G. Townsend *et al.,* University of Florida, 1999). Flat panel displays (FPDs) have emerged on the electronics market as a replacement for CRTs in certain applications, primarily because FPDs are lighter, smaller, and more portable, and they consume less energy during operation. FPDs generally contain no lead, but may contain encapsulated mercury in small amounts.

D. How Are Used Cathode Ray Tubes Currently Managed?

1. Reuse

Many used computers are resold or donated so that they can be used again, either as is or after minor repairs. Although the Agency has no legal jurisdiction over reused computers, we encourage this option as a responsible way to manage these materials, because preventing or delaying the generation of waste often conserves resources. This option extends the lives of valuable products and keeps them out of the waste management system for a longer time. Reuse also allows schools, non-profit organizations, and individual families to use equipment that they otherwise could not afford. Many markets for reuse of computers are located abroad, particularly in countries where few may be able to purchase state-of-the-art new equipment.

Organizations which handle used computers vary from area to area. In some cases, nonprofit organizations such as charities and school districts take donations of used computer equipment. These organizations may test the equipment, and, if necessary, rewire it and replace various parts, including the electron gun, before sending them for reuse. In other cases, the entities that collect the CRTs send them to another organization with more expertise for evaluation and possible repair and reuse. CRTs that cannot be used after such minor repairs may be sent to recycling or disposal. CRTs from televisions are more likely to be repaired by appliance dealers or small repair shops before reuse.

2. Recycling

a. Collection of used CRTs. If reuse or repair is not a practical option, CRTs can be sent for recycling, which typically consists of disassembly for the purpose of recovering valuable materials from the CRTs, especially glass. A growing number of municipalities are offering to collect computers and electronics for recycling. In addition, public and private organizations have emerged that accept CRTs for the same purpose. Examples of such organizations include county recycling drop-off centers, television repair shops, charities, electronics recycling companies, and electronics manufacturers and retailers.

An increasing number of electronics manufacturers are offering to take back computer CRTs for recycling. In some cases, these services are provided free. In other cases, a fee is charged, usually for shipping and handling. Take-back programs have been available for some time to major corporations and large purchasers of electronic equipment. Now, electronics manufacturers are beginning to offer similar services for computer CRTs to small businesses and households.

b. Recycling of unused CRTs and unused CRT glass. Makers of glass for CRTs recycle some of the glass they produce because it does not meet product specifications. EPA estimates that about one or two percent of glass production results in unused, off-specification products. This glass is generally recycled into new CRT glass. The glass may be recycled on-site at a CRT glass manufacturing facility, or it may be sent to a glass processor. Computers and television manufacturers also find that a small percentage of assembled monitors are ''off-specification''. They may send these unused devices to a glass processor.

c. Glass processing and other materials recovery. CRT glass processors that accept used CRTs generally receive them from three sources: the glass manufacturers described above (who supply most of the glass), manufacturers of monitor units who decide not to sell off-specification monitors, and businesses who provide used computers or televisions, which at present are a much smaller source.

The used CRTs are typically stored in a warehouse. When the processing begins, the CRT display unit is dismantled, and the bare CRT is separated from all other parts (usually glass, plastic, or metal). Next, the vacuum is released by drilling through the anode, a small metal button in the funnel. The different glass portions of the CRT (faceplate, funnel, and neck) are then separated and classified according to chemical composition, especially by the amount of lead contained. The same sorting takes place for broken glass received from CRT glass manufacturers, which is separated into leaded and non-leaded glass. All glass is then cleaned and the coatings removed. The sorted and cleaned cullet (*i.e.,* processed glass) is then typically stored in enclosed areas before it is shipped off-site to a CRT glass manufacturer (or sometimes to a smelter or to manufacturers of other kinds of glass). When a CRT glass manufacturing facility receives a shipment of processed CRT glass, it removes the anode button and further crushes the glass, which then enters a furnace to be heated and made into new CRT glass.

Sometimes the processed glass is sent to a lead smelter where it is recycled to reclaim the lead and to provide silica, which acts as a fluxing agent in the smelter. These uses often occur if the glass does not meet the specifications for CRT glass. The cleaning process described above also generates glass fines that are collected and sold to lead smelters to be used as a fluxing agent. In addition, processed CRT glass may be sent to copper smelters, also for use as a flux. Sometimes other types of production facilities use processed CRT glass to make objects such as radiation shielding, acoustical barriers, optical glass beads, or decorative glass and tile products. The market for these recycled glass items is currently limited, but may grow in the future.

3. Disposal

Many consumers do not wish to discard monitors and TVs if they can be recycled. Many or most CRTs therefore remain in storage. Of the CRTs that are disposed of by households, most go to municipal landfills, and others to municipal waste-to-energy (WTE) facilities. Only a small percentage are recycled (*see Life Cycle Assessment of the Disposal of Household Electronics,* D. McKenna *et al.,* August 1996, which indicated that only one percent of CRTs from households were recycled). Some CRTs from non-household sources are also placed in municipal landfills. Some

states (such as Massachusetts and California) have banned CRTs from all sources from landfills.

E. How Do EPA's Current Regulations Apply to CRTs and Other Electronic Materials?

As described above, CRT glass often exhibits the toxicity characteristic (TC) for lead because this constituent is used to make most CRT glass. Whether a person or facility is currently subject to the RCRA hazardous waste regulations depends on several factors, including whether the CRT will be recycled or disposed and the type of user. Following is a brief description of how different entities are currently regulated.

1. Who Is Regulated And Who Is Not?

a. Households. Households that dispose of CRTs are exempt from hazardous waste management requirements under 40 CFR 261.4(b)(1). They may therefore send their used computer and television monitors to any facility or collector for recycling or disposal without being subject to regulation. Other facilities managing household hazardous waste (such as collectors, recyclers, or disposers) continue to be exempt from hazardous waste requirements unless the household waste is mixed with other regulated hazardous waste.

b. Non-residential generators. Non-residential generators of less than 100 kilograms (about 220 lbs) of hazardous waste (including CRTs) in a calendar month are known as conditionally exempt small quantity generators (CESQGs) and are not subject to most RCRA Subtitle C hazardous waste management standards. The Agency notes that about 7 or 8 CRTs would be sufficient to weigh 220 lbs (assuming that each monitor weighed 30 lbs). These CESQGs may choose to send their wastes to a municipal solid waste landfill or other facility approved by the state for the management of industrial or municipal non-hazardous wastes, including recycling facilities (40 CFR 261.5). Generators of more than 100 kilograms (about 220 lbs) and less than 1,000 kilograms (about 2,200 lbs) of hazardous waste (including CRTs) in a calendar month are subject to the RCRA hazardous waste management standards, but are allowed to comply with certain reduced regulatory requirements (40 CFR 262.34). Generators of more than 1,000 kilograms (about 2,200 lbs) of hazardous waste in a calendar month are considered large quantity generators and are subject to all the applicable hazardous waste regulations for generators (40 CFR 262.34). CRTs that are not considered wastes should not be counted in determining whether a generator is a CESQG, SQG, or LQG.

2. When Do CRTs Become Wastes?

To determine whether a non-residential facility with used CRTs must comply with the RCRA hazardous waste regulations, the user must first determine if its used CRTs are solid wastes. Following is a brief description of how solid waste determinations for CRTs are made under federal law.

a. Reuse and repair of used CRTs. EPA has consistently taken the view that materials used and taken out of service by one person are not wastes if a second person puts them to the same type of use without first ''reclaiming'' them (*see* 50 FR 624, January 5, 1985). Many CRTs are taken out of service by both businesses and households not because they can no longer be used, but because users are upgrading their systems to take advantage of the rapid advances that have resulted in better and faster electronics. Businesses and organizations upgrading their computers often replace the entire computer system, including the monitors. A working CRT-containing unit considered obsolete by one user is therefore likely to be capable of reuse as a computer monitor or a television monitor by another user.

Many businesses and organizations that take CRTs out of service do not have the specialized knowledge needed to determine whether the unit can be reused as a computer or television display unit. Moreover, those entities often do not decide whether a particular CRT will, in fact, be reused. Many businesses and other organizations send used computers and televisions to resellers. Resellers often test CRTs or otherwise decide if the CRTs can be reused directly, if they can be reused after minor repairs, or if they must be sent for further processing or disposal. Because the typical original user usually lacks the specialized knowledge needed to decide the future of a CRT, EPA is today clarifying that we do not consider a user sending a CRT to a reseller for potential reuse to be a RCRA generator.

Furthermore, EPA today clarifies that used CRTs undergoing repairs before resale or distribution are not being ''reclaimed,'' and are considered to be products ''in use'' rather than solid wastes. Resellers of used CRTs generally test and identify equipment that can be resold or is economically repairable. Sometimes the equipment is collected and redistributed for reuse with no repairs. If repairs are necessary, they typically consist of rewiring, replacing defective parts, or replacing the electron gun. Under these circumstances, the CRT would still be considered a commercial product rather than a solid waste. EPA believes that these repairs and replacement activities do not constitute waste management.

b. Unused CRTs sent for recycling. Sometimes manufacturers of computers and televisions send unused CRTs (usually off-specification CRTs) directly to glass processors who break the CRTs and separate out the glass components. Generally, the processor then sends the processed glass to a glass-to-glass recycler or to another recycling facility, such as a lead smelter. Although EPA could consider these activities to constitute reclamation, the Agency does not regulate the reclamation of either listed or characteristic unused commercial chemical products (*see* 50 FR 14219, April 11, 1985). EPA considers unused CRTs to be unused commercial chemical products. Therefore, these materials are not solid wastes when sent for reclamation.

c. Used CRTs sent for recycling. Under the current RCRA regulations, used CRTs sent directly to glass processors or other recyclers could under some circumstances be considered spent materials undergoing reclamation, and could therefore be solid wastes. However, as explained elsewhere in this notice, EPA believes that under some circumstances used CRTs sent for recycling do not resemble spent materials. Therefore, users and resellers sending used CRTs to recyclers should check with their authorized States to see which Subtitle C requirements, if any, are applicable to their activities. EPA encourages States to take approaches consistent with today's proposal. The Agency is today proposing an exclusion from the definition of solid waste for used CRTs being recycled if they are managed under certain conditions. This proposal is discussed later in this notice.

d. Disposal. If a non-household entity decides to send used or unused CRTs directly to a landfill or an incinerator for disposal, that entity would be considered the generator of a solid waste. The person making the decision must determine if the CRTs exhibit a hazardous waste characteristic under 40 CFR part 261, subpart C. He may either test the CRTs or use process knowledge to make this determination. As stated above, many or most CRTs from color computer or television monitors exhibit the toxicity characteristic for lead. Although EPA's data indicate that most CRTs from black and white monitors do not fail the TC, those that do are subject to all applicable hazardous waste management requirements. When a

decision is made to dispose of hazardous waste CRTs, the non-residential user, reseller, or manufacturer must comply with all applicable hazardous waste generator requirements of 40 CFR part 262, including packaging and labeling, 90-day accumulation requirements, use of the hazardous waste manifest, and recordkeeping and reporting (unless the generator is a CESQG).

Some companies ship their waste CRTs to hazardous waste landfills for disposal. Used CRTs generated by a non-residential facility that fail the TC for lead must meet applicable land disposal restrictions (LDRs) before being placed in a land-based unit, such as a landfill. These restrictions do not apply to CRTs generated by households or CESQGs. To meet LDRs, the CRT glass must be treated so that the TCLP lead concentration does not exceed 0.75 mg per liter. This concentration level is generally achieved by crushing and stabilizing the glass through the addition of chemicals which reduce the solubility of lead when contacted by leachate.

3. When Do Non-CRT Electronic Materials Become Wastes?

In 1992, the Agency issued a memorandum to its EPA Regional Waste Management Directors stating that used whole circuit boards are considered to be scrap metal when sent for reclamation, and therefore exempt from regulation under RCRA. The Agency has also addressed printed circuit boards in the Land Disposal Restrictions Phase IV rulemaking (*see* 62 FR 25998, May 12, 1997). In that rulemaking, the Agency provided an exclusion from the definition of solid waste at 40 CFR 261.4(a)(14) for shredded circuit boards being reclaimed, provided they are stored in containers sufficient to prevent a release to the environment prior to recovery and provided they are free of mercury switches, mercury relays, nickel-cadmium batteries and lithium batteries. Subsequently, on May 26, 1998 (63 FR 28556), the Agency clarified that the scrap metal exemption applies to whole used circuit boards that contain minor battery or mercury switch components and that are sent for continued use, reuse, or recovery. In that notice, EPA stated that it was not the Agency's intent to regulate under RCRA circuit boards containing minimal quantities of mercury and batteries that are protectively packaged to minimize dispersion of metal constituents. Once these materials are removed from the boards, they become a newly generated waste subject to a hazardous waste determination. If they meet the criteria to be classified as a hazardous waste, they must be handled as hazardous waste; otherwise they must be managed as a solid waste.

The Agency is studying certain non-CRT electronic materials to determine whether they consistently exhibit a characteristic of hazardous waste. However, we are not currently aware of any non-CRT computer components or electronic products that would generally be hazardous wastes. With respect to these materials, the Agency would use the same line of reasoning that is outlined above for CRTs to determine if the materials are solid wastes. That is, if an original user sends electronic materials to a reseller because he lacks the specialized knowledge needed to determine whether the units can be reused as products, the original user is not a RCRA generator. The materials would not be considered solid wastes until a decision was made to recycle them in other ways or dispose of them.

F. What Are The Common Sense Initiative (CSI) Recommendations?

From 1994 through 1998, EPA's Common Sense Initiative (CSI) explored the environmental regulation of six industry sectors and looked for ways to make environmental regulation ''cleaner, cheaper, and smarter.'' EPA established CSI as an advisory committee (the ''CSI Council'') under the Federal Advisory Committee Act. The CSI Council included representatives from each industry sector, from non-governmental environmental and community organizations, from state governments, and from colleges and universities. EPA also established subcommittees of the Council for each industry sector. The subcommittees included representatives of the various stakeholders represented in the CSI Council. One of the industry sectors selected for this initiative was the computer and electronics industry. The CSI Computers and Electronics Subcommittee (CES) then formed a workgroup to examine regulatory barriers to pollution prevention and recycling. The workgroup (known as the ''Overcoming Barriers Workgroup'') explored the problems of managing mounting volumes of outdated computer and electronics equipment.

One of the concerns investigated by the Overcoming Barriers Workgroup and the CES was the barrier to CRT recycling created by some existing hazardous waste management regulations. The CES urged that removing such barriers was essential to fostering CRT recycling, especially glass-to-glass recycling. The Subcommittee believed that CRT recycling would provide the following benefits: (1) Less lead sent to landfills and combustors; (2) added resource value of specialty glass and lead; (3) lower waste management costs; (4) less regulatory uncertainty about CRT recovery and recycling; (5) less use of raw lead in CRT glass manufacturing; (6) better melting characteristics, improved heat transfer, and lower energy consumption in CRT glass manufacturing furnaces; (7) improved CRT glass quality; and (8) lower emissions of lead from CRT glass manufacturing. The CES Subcommittee indicated that some recycling methods or end products (other than those associated with glass-to-glass recycling) may pose risks to human health and the environment and would require further investigation.

As a result of the finding of the CES Subcommittee, the CSI Council issued a document titled *Recommendation on Cathode Ray Tube (CRT) Glass-to-Glass Recycling.* In this document, the Council recommended streamlined regulatory requirements for CRTs that would encourage recycling and better management. The recommendations included streamlined requirements for packaging, labeling, transportation; general performance standards for glass processors; and export provisions. The CSI Council also recommended an exclusion from the definition of solid waste for processed glass that is used to make new CRT glass. In today's document, EPA proposes an exclusion from the definition of solid waste which would streamline management requirements for used CRTs. Although the requirements proposed today are more streamlined that those recommended by the CSI Council, we believe that they will be just as effective in fostering the goals of the Council. The Agency is also soliciting comment on several alternative management requirements.

G. Proposed Requirements for Used CRTs Undergoing Recycling

1. What Will Not Be Affected by Today's Proposed Rule?

All materials discussed above that are not currently regulated under RCRA will remain unaffected by today's proposal. Used CRTs from households and CESQGs will retain their current regulatory exemptions. Used CRTs from any source that are sent for reuse as is or after minor repairs are not wastes. Proposed § 261.4(a)(23) will provide better notice of this interpretation of our current regulations. Unused CRTs sent for recycling will still be classified as commercial chemical products which are not solid wastes even if they are

reclaimed or speculatively accumulated. Finally, both used and unused CRTs sent for disposal will also remain regulated as before.

2. What Is Covered by Today's Proposed Rule and What Are the Proposed Management Requirements?

Today's proposal principally addresses used CRTs destined for recycling and processed glass from CRTs. The regulations we are proposing distinguish between intact CRTs and CRTs that are broken. An intact CRT is a CRT remaining within the monitor whose vacuum has not been released. A broken CRT means glass removed from the monitor after the vacuum has been released. EPA notes that these proposed definitions would also cover non-consumer CRTs such as medical, automotive, oscilloscope, and appliance CRTs.

a. Used, Intact CRTs Destined for Recycling. Today's proposal would exclude intact CRTs from the definition of solid waste unless they are disposed. Consequently, these units would not be subject to Subtitle C regulation, including the speculative accumulation limits of 40 CFR 261.2(c)(4). They could therefore be held indefinitely without becoming solid wastes.

Intact CRTs are highly unlikely to release lead to the environment because the lead is contained in the plastic housing and the glass matrix. Because of this low likelihood of release, EPA is today proposing reduced requirements for broken CRTs which are based on findings that these materials merit exclusion from the definition of solid waste. For the sake of regulatory simplicity, the Agency is proposing to codify all of the reduced requirements for CRTs in one section of the Code of Federal Regulations, under the list of exclusions from the definition of solid waste.

As noted above, unused CRTs are currently considered commercial chemical products which are excluded from the definition of solid waste when recycled, even if they are reclaimed or speculatively accumulated. We believe that it would be very difficult to distinguish between used and unused intact CRTs destined for recycling. Moreover, there appears to be no environmental basis for such a distinction. Therefore, EPA is proposing to grant relief from Subtitle C requirements for all intact CRTs unless they are disposed, whether used or unused.

b. Used, Broken CRTs Destined for Recycling. Some users and collectors of CRTs separate the CRT from the monitor and release the vacuum, after which they send the resulting broken glass to a recycler (often a glass processor). This practice saves shipping costs and enables the glass processor to pay more for the broken CRTs received. At other times, the CRTs are first broken by the processor or other recycler. CRTs whose glass has been broken by releasing the vacuum are non-reusable and non-repairable; they are therefore solid wastes at the time such breakage occurs.

EPA is proposing today to amend 40 CFR part 261 to add a new § 261.39(a), which will provide that used, broken CRTs are excluded from the definition of solid waste if they meet specified conditions. Under today's proposal, used, broken CRTs sent for recycling would not be solid wastes if they are stored in a building with a roof, floor, and walls. If they are not stored in a building, they must be stored in a container (*i.e.,* a package or a vehicle) that is constructed, filled, and closed to minimize identifiable releases of CRT glass (including fine solid materials) to the environment. The packages must also be labeled or marked clearly. When transported, the broken CRTs must also be in a container meeting the conditions described above. Used, broken CRTs destined for recycling would also not be allowed to be speculatively accumulated as defined in 40 CFR 261.1.

The Agency believes that if these materials are properly containerized and labeled when stored or shipped prior to recycling, they resemble articles in commerce or commodities more than wastes. Breakage is a first step toward recycling the leaded glass components of the CRT. Also, materials held in conditions that safeguard against loss are more likely to be regarded as valuable commodities destined for legitimate recycling. In addition, the proposed packaging requirements would ensure that the possibility of releases to the environment from the broken CRTs is very low. For these reasons, an exclusion from the definition of solid waste is appropriate if the broken CRTs are handled under the conditions proposed today.

Today's proposal would require used, broken CRTs that are imported for recycling to comply with the packaging and labeling requirements specified above when they enter the borders of the United States in order to be eligible for the exclusion. Similarly, they could not be speculatively accumulated after arriving in the country. However, they would not be subject to any of the hazardous waste import requirements of 40 CFR part 262, subparts F and H.

Used, broken CRTs that are exported would not be solid wastes if they were packaged and labeled as described above, and if they were not speculatively accumulated. Exports of broken CRTs meeting these conditions would therefore not be subject to the hazardous waste export requirements of 40 CFR part 262, subparts E and H, including the hazardous waste notification requirements.

c. Used, broken CRTs Undergoing Glass Processing. The Agency also proposes today an exclusion from the definition of solid waste for used CRTs undergoing glass processing, as long as the processing meets certain conditions. CRT glass processing is defined in proposed 40 CFR 260.10 as receiving intact or broken used CRTs, intentionally breaking them, sorting or otherwise managing glass removed from CRT monitors, and cleaning coatings from the glass. As noted above, CRT users and collectors sometimes break CRTs before sending them to a processor. Therefore, breaking used CRTs would not by itself subject a facility to the CRT glass processing conditions. In order to be classified as a used CRT glass processor, the facility must perform all of the activities listed above.

The provisions of today's proposed 40 CFR 261.39(b) state that used, broken CRTs undergoing glass processing would not be considered solid wastes if they are stored in a building with a roof, floor, and walls. If they are not stored inside a building, they must be packaged and labeled under conditions identical to those proposed above for used, broken CRTs prior to processing. In addition, all glass processing activities must take place within a building with a roof, floor, and walls, and no activities may be performed that use temperatures high enough to volatilize lead from used, broken CRTs. In order to be eligible for the exclusion proposed today, the used, broken CRTs could not be speculatively accumulated as defined in 40 CFR 261.1. As discussed above, EPA is today proposing an unconditional exclusion for used, intact CRTs if they are sent for recycling (including glass processing). Under today's proposal, no other conditions would apply to intact CRTs.

EPA believes that the packaging and storage conditions proposed today indicate that the materials in question are more commodity-like than waste-like. Used, broken CRTs that are not stored or packaged in accordance with these requirements would not be valuable, product-like materials. The opportunity for loss or releases of the materials would indicate that they are wastes. As specifically recommended by the CSI Council, we are also proposing

that processors be required to conduct their activities without using temperatures high enough to volatilize lead from broken CRTs. Besides increasing the risk of releases to the environment, such practices could be a sign of waste treatment rather than production.

d. Processed Glass From Used CRTs Sent for Recycling to Glass Manufacturers and Lead Smelters. In today's document, the Agency is proposing in 40 CFR 261.39(d) to exclude processed glass from used CRTs from the definition of solid waste if it is sent for recycling to a CRT glass manufacturer or to a lead smelter, as long as the processed glass is not speculatively accumulated, and as long as it is not used in a manner constituting disposal.

EPA believes that processed glass from used CRTs destined for CRT glass manufacturing or sent to a lead smelter meets the regulatory criteria in 40 CFR 260.31(c) for a variance from the definition of solid waste. This variance applies to materials that have been reclaimed but must be reclaimed further before recovery is completed, if, after initial reclamation, the resulting material is commodity-like. The following paragraphs discuss the characteristics of processed CRT glass and how they meet the criteria.

i. The degree of processing a material has undergone and the degree of further processing that is required (40 CFR 260.31(c)(1)). Processed CRT glass needs minimal further processing by CRT glass manufacturers or lead smelters. CRT glass cullet is shipped to these facilities already cleaned and sorted. CRT manufacturers and smelters perform processing steps consisting only of magnetic separation of anode buttons and studs and, if necessary, further crushing of the glass. Following these steps, the partially reclaimed CRT glass enters the furnace or smelter, similar to other feedstocks used in glass manufacturing and smelting.

ii. The economic value of the material that has been initially reclaimed (40 CFR 260.31(c)(2)). The initial processing of CRT glass satisfies this criterion. CRT glass is usually purchased by CRT glass manufacturers from processors for at least $170 per ton (approximately three-fourths of the price of virgin glass). In contrast, lead smelters are usually paid at least $150 per ton by processors for CRT glass used as fluxing material and lead feedstock. However, lead smelters only pay an average of about six dollars per ton for industrial sand used as a fluxing material. Broken glass from CRTs resembles industrial sand in composition and can therefore serve as a substitute for this sand in the fluxing process. The sand, however, is not expensive.

CRT glass manufacturers and lead smelters currently obtain processed CRT glass from processors and are working with the processors to increase the supply and quality of processed CRT glass, which may further increase value. The value of processed CRT glass depends on whether manufacturers' specifications are met, and some glass chemistries require exacting specifications that make the processed glass more valuable if it meets those specifications. CRT glass manufacturers have stricter quality standards than lead smelters about the type of material that they can accept (e.g., cleaned, sized, free of coating and debris).

Further evidence of the economic value of reclaimed CRT glass is demonstrated by the cost savings realized by CRT glass manufacturers and lead smelters when using processed CRT glass. The use of processed CRT glass cullet benefits the manufacturer in several ways, such as improving heat transfer and melting characteristics in the furnaces, lowering energy consumption, and maintaining or improving the quality of the final product.

iii. The degree to which the reclaimed material is like an analogous raw material (40 CFR 260.31(c)(3)). Under this criterion, the partially reclaimed material must be similar to an analogous raw material or feedstock for which the material may be substituted in a production or reclamation process. Processed CRT glass is similar to off-specification glass and cullet that manufacturers currently use as feedstock. Glass-making furnaces require between approximately 30 and 70 percent cullet. With respect to lead smelters, processed CRT glass is similar to industrial sand that would otherwise be used as feedstock or flux in the smelter.

iv. An end market for the partially reclaimed material is guaranteed (40 CFR 260.31(c)(4)). The Agency believes that there is a strong end market for processed CRT glass. CRT glass manufacturers and lead smelters have developed relationships with CRT glass processors to increase the amount and quality of reclaimed CRT glass cullet available for glass-to-glass recycling and lead reclamation. In addition, CRT glass manufacturers have developed programs in which off-specification CRTs may be delivered directly to CRT processors for initial processing. The processed CRT glass is delivered to CRT glass manufacturers for use as feedstock in glass-to-glass manufacturing, or to lead smelters for recycling.

v. The extent to which the partially reclaimed material is handled to minimize loss (40 CFR 260.31(c)(5)). The Agency believes that current CRT glass industry practices are effective in minimizing losses and preventing releases. Processed CRT glass generally is stored indoors on a cement or asphalt pad. In most cases, the material is shipped in large capacity trucks that are covered with a tarp to minimize loss during transport. When the CRT glass manufacturers or lead smelters receive shipments, the glass is unloaded into a temporary holding area, inspected, and either loaded onto a conveyor belt for further processing or stored under cover. Following these steps, the reclaimed CRT glass enters the furnace feedstock stream or the smelter.

e. Processed glass from Used CRTs Sent For Other Types of Recycling. Under today's proposal, processed glass from used CRTs sent for recycling at a facility other than a glass manufacturer or a lead smelter would be excluded from the definition of solid waste only if additional conditions were met. The processed glass would have to be packaged and labeled in accordance with the requirements of proposed 40 CFR 261.39(a). Also, speculative accumulation limits would apply.

As stated previously, processed glass is sometimes sent to copper smelters for recycling. It also may be sent for recycling into objects such as radiation shielding, acoustical barriers, optical glass beads, or decorative glass and tile products. The Agency believes that processed glass sent for such uses resembles a commodity more than a waste if it is packaged and labeled under these conditions. In addition, such packaging ensures that the possibility of releases to the environment is minimal.

f. Processed Glass From Used CRTs Used in a Manner Constituting Disposal. If processed glass is sent for any kind of recycling that involves land placement, it would be subject to the requirements of 40 CFR part 266, subpart C, for recyclable materials used in a manner constituting disposal. The Agency is currently unaware of processed glass being recycled in this manner.

g. Imports and Exports. Import requirements were discussed above for used, broken CRTs prior to recycling. Similar import requirements would apply to used, broken CRTs sent to the United States and held at glass processing facilities, as well as already processed glass from used, broken CRTs sent to the United States. In all cases, the material would be subject to the

conditions proposed today, rather than the import requirements of 40 CFR part 262. Similarly, as long as used CRTs (or processed glass from used CRTs) met the conditions proposed today, the export requirements of 40 CFR part 262 would not apply.

H. Solicitation of Comment on EPA's Proposed Management Requirements for Used CRTs and Processed CRT Glass

EPA believes that today's proposed exclusion from the definition of solid waste is the regulatory scheme which will best promote the CSI Council goals of improved management and increased recycling of the CRT wastestream. The requirements proposed in today's notice are more streamlined than those recommended by the CSI Council. However, we believe that these requirements, if finalized, will lead to better management and more recycling while affording full protection to human health and the environment.

The Agency is also soliciting comment today on several other recommendations of the CSI Council, on certain other regulatory alternatives for CRTs that are not proposed today, and on a proposed change to the universal waste rule. These solicitations are discussed below.

1. Universal Waste Alternative

The CSI Council envisioned that CRTs would be added to the universal waste rule, which distinguishes between small quantity handlers of universal waste (SQHUWs) and large quantity handlers of universal waste (LQHUWs). The accumulation limit for LQHUWs recommended by the CSI Council was 36,287 kilograms (for CRTs stored on-site for longer than seven consecutive days). Other universal waste requirements applicable to both SQHUWs and LQHUWs that are not proposed today for regulated entities include employee training requirements. The Agency also is not proposing to require that regulated entities notify the appropriate EPA Region of their CRT waste management activities, and track shipments of CRTs sent and received, which would have been required of LQHUWs under the CSI recommendations. The Agency solicits comment on whether these requirements would be appropriate or burdensome for any entities engaged in breaking or processing CRT glass, or for collectors who send used CRTs or CRT glass to glass processors.

2. Definition of ''Broken CRT''

EPA is today proposing streamlined requirements for broken CRTs sent for recycling. ''Broken CRT'' is defined as ''glass removed from the monitor after the vacuum has been released''. Data available to the Agency indicate that after the vacuum has been released and the glass removed, the CRT is generally no longer reusable as a product. However, EPA solicits comment on whether it might be possible to repair and reuse a CRT after the vacuum has been released and the glass removed from the monitor, as well as suggested alternative definitions for ''broken CRT'.

3. Alternative Approaches to Speculative Accumulation and Use Constituting Disposal (Land Placement)

EPA notes that under today's proposal, broken CRTs (but not intact CRTs) that are sent for recycling in accordance with the packaging and labeling requirements of proposed 40 CFR 261.39 would be subject to the speculative accumulation provisions of 40 CFR 261.1(c)(8). The Agency solicits comment on whether a longer accumulation time period (such as two or more years) should be provided for CRTs, in order to allow recycling markets to develop more fully for this relatively new wastestream and because there appear to be few environmental concerns with storage as long as these materials are packaged and labeled properly. EPA also solicits comment on whether intact CRTs sent for recycling should be subject to the speculative accumulation provisions, or whether they resemble commercial chemical products being reclaimed. In addition, the Agency requests comment on whether to add a condition prohibiting use constituting disposal or land placement of broken CRTs (as is proposed today for processed CRT glass). The Agency is not aware of any current uses for broken CRTs or processed CRT glass that involve use constituting disposal, and we solicit comment on the existence of any such uses and their implications.

4. Alternative Standards for Processing Used CRTs

EPA also solicits comment on the appropriateness of requiring additional performance standards for glass processors. The CSI Council recommended that glass processors install and maintain systems sufficient to minimize releases of glass and glass particulates via wind dispersal, runoff, and direct releases to soil. It also recommended that processing be performed at temperatures low enough to avoid volatilization of lead from the glass. Today's proposal contains the requirement for processing temperatures, but took a different approach than proposing the general performance standard recommended by the CSI Council. Today's proposed conditions for excluding glass being processed from the definition of solid waste are very similar to management standards cited by the CSI Council as examples of conformance to its recommended performance standards. For example, the Council stated that storing broken CRTs and CRT glass in buildings or closed containers were examples of ways to control wind dispersal, runoff, and direct releases to soil. EPA therefore believes that today's proposed requirements, in addition to being indications that the materials in question resemble commodities rather than wastes, are adequate to fulfill the concerns of the CSI Council. However, the Agency solicits comment on whether to require the general performance standards recommended by the Council.

EPA also solicits comment on whether to retain today's proposed requirement that glass processing be conducted at temperatures that are not sufficiently high to volatilize lead. We note that worker health and safety would be covered under the provisions of 29 CFR part 1910 of the Occupational Safety and Health Administration (OSHA). The Agency seeks comment on whether today's proposed temperature requirement is necessary to prevent volatilization of lead, and also on whether glass processing conducted at high temperatures is an indication of waste management.

EPA would also like to solicit comment on the CSI Council recommendation that glass processors implement a procedure for advising local communities of the nature of their activities, including the potential for resident and worker exposure to lead or chemical coatings. In general, EPA has not required public participation for hazardous waste recycling facilities, unless they obtain RCRA permits for storage of hazardous waste prior to recycling. Usually, local notice and public meetings are governed by preexisting state or local requirements concerning siting, zoning, or licensing. The Agency believes that matters of local notice and public participation are generally best decided at the state, county, or municipal level, but solicits comment on whether to require additional procedures under federal regulations in the case of CRT recycling, and the reasons why these procedures are needed.

5. Alternative Standards for Processed Glass From Used CRTs Sent for Recycling

In addition, EPA solicits comment on whether to exclude from the definition of solid waste under 40 CFR 261.4(b))(39) only processed glass recycled by being sent to CRT glassmaking, as recommended by the CSI Council. EPA notes that the recommendations of the CSI Council did not include an exclusion for processed glass sent to lead smelters, and that the Council expressed concerns about possible environmental risks associated with this practice. However, after evaluation of this question, the Agency has decided, as explained previously in this preamble, that processed glass sent to lead smelters is more like a commodity than a waste. EPA believes that such an exclusion would be desirable because recycling CRTs at lead smelters appears to be just as legitimate as glass-to-glass recycling. The proposed exclusion may also turn out to be useful if the increased use of flat screens decreases the potential for glass-to-glass recycling.

EPA is also soliciting comment today on whether to exclude from the definition of solid waste CRT glass sent to copper smelters or other glass uses without packaging and labelling requirements. The Agency is aware that processed CRT glass has been shipped for recycling to copper smelters, but we lack much information about this practice. We request comment on whether this glass is as commodity-like as that sent to glass-to-glass recycling or lead smelters. We also solicit comment on whether the exclusion should be allowed for other glass uses. These glass uses are currently being developed and include optical beads, decorative objects, radiation shielding materials, and acoustic barriers for use in the aerospace industry and in equipment manufacturing where sound control is essential. EPA believes that CRT glass being recycled into some of these products would likely be a commodity-like material which would meet the variance criteria described above. We therefore solicit additional information about these uses, or other uses of which commenters may be aware, and on whether CRT glass used for these purposes is commodity-like.

6. Exports of Used CRTs

With respect to exports, the Agency notes that the CSI Council also developed recommendations for exporting CRT glass. The recommendations include exporting provisions for CRTs, coated (*i.e,* unprocessed) CRT glass, and uncoated (processed) CRT glass. For each category, the CSI Council recommended administrative requirements, depending on whether or not the shipment is destined for an Organization for Economic Cooperation and Development (OECD) country.

Under the CSI recommendations, entities exporting CRTs and coated CRT glass would be subject to the same exporting provisions as generators of hazardous waste in Subparts E or H of Part 262 (export notice and consent procedures for non-OECD and OECD countries); such provisions would be revised to specifically identify the recipient as a collector or processor. For shipments of uncoated CRT glass to those OECD countries specified in 40 CFR 262.58(a)(1), the exporter would be required to provide an annual report to EPA summarizing the number of shipments and volume sent to each recipient (by country), and identifying the recipient CRT glass collector and processor. For shipments of uncoated CRT glass to non-OECD countries, the exporter would be required to send annual notification to EPA 90 days prior to the first shipment to each recipient, identifying the country, the recipient CRT glass collector or processor, and the expected number and volume of shipments to be sent that year.

EPA notes that today's proposal would exclude from the definition of solid waste used intact CRTs sent for recycling, along with used, broken CRTs sent for recycling if they are packaged and labeled in accordance with the conditions proposed in 40 CFR 261.39. Similarly, processed glass would be exempt from the definition of solid waste if sent to CRT glassmaking or a lead smelter. Since these materials would no longer be considered solid or hazardous wastes, the Agency would not have the legal authority to require notification under 40 CFR part 262, subparts E and H, or the authority to require additional notifications. The Agency notes that if used CRTs were added to the universal waste program, EPA would have authority to require notification at least for exported broken CRTs. EPA solicits comment on whether the need for the export notification requirements recommended by the CSI would warrant adding used CRTs to the universal waste program, and whether these requirements would be unduly burdensome.

7. Disposal of CRTs

Finally, the Agency requests comment on whether to allow CRTs sent for disposal in hazardous waste facilities (*i.e.,* landfills or incinerators) to comply with streamlined packaging and labeling requirements similar to those proposed today for broken CRTs sent for recycling, rather than comply with full Subtitle C requirements. EPA also seeks comment on whether adding used CRTs to the universal waste program, which would provide packaging and labeling requirements (as well as tracking requirements for larger quantities of CRTs) would provide better management of these wastes through improved compliance, and whether such requirements would adequately protect human health and the environment.

IV. Mercury-Containing Equipment

A. What Is ''Mercury-Containing Equipment?'

In response to the 1993 universal waste proposal (58 FR 9346, February 11, 1993), some commenters suggested adding used mercury-containing equipment (such as switches, relays, and gauges) to the universal waste rule at 40 CFR part 273. In the 1995 final rule, however, the Agency did not include these materials in the universal waste program, stating in the preamble that we lacked sufficient information to justify such a decision (60 FR 25942, 25508, May 11, 1995). In particular, EPA did not have data about which kinds of wastes should be included in the suggested category, the amount of mercury in the wastes, and which management controls would be effective. We stated that we would welcome a petition which would provide enough information to add some forms of mercury-containing equipment to the universal waste program.

On October 11, 1996, the Utility Solid Waste Activities Group (USWAG), the Edison Electric Institute, the American Public Power Association, and the National Rural Electric Cooperative Association submitted a petition to add mercury-containing equipment to the universal waste program. This petition identified many types of mercury-containing equipment, including several kinds of instruments that are used throughout the electric utility and other industries, municipalities, and households. These devices include manometers, barometers, hagenmeters, relay switches, mercury wetted switches, mercury regulators, meters, temperature gauges, pressure relief gauges, water treatment pressure gauges, sprinkler system contacts, power plant water treatment gauges, and variable force counterweight wheels used in coal conveyor systems.

B. Why Is EPA Proposing To Add Mercury-Containing Equipment To The List of Universal Wastes?

The USWAG petition contained useful information describing how such equipment would meet the regulatory criteria for adding wastes to the universal waste program set forth at 40 CFR 273.81. After examining the information contained in the petition, we have decided to propose adding spent mercury-containing equipment to the universal waste rule. Following is a description of the regulatory criteria for adding wastes to the universal waste rule, and why the Agency believes that used mercury-containing equipment meets these criteria. In particular, EPA believes that adding these wastes to the universal waste rule will facilitate collection of mercury-containing equipment, thereby reducing the amount of mercury reaching municipal landfills and incinerators. USWAG has estimated that approximately 3,000 pounds of such equipment is generated annually by electric and gas utilities and by other businesses.

1. The Waste, as Generated by a Wide Variety of Generators, Should Be a Listed or Characteristic Hazardous Waste (40 CFR 273.81(a))

The category of mercury-containing equipment consists of such devices as thermometers, manometers, barometers, relay switches, mercury regulators, meters, pressure relief gauges, water treatment pressure gauges, and sprinkler system contacts. Most mercury-containing equipment has a few grams of mercury, although devices such as large manometers may contain much more. Many of these devices would fail the TCLP toxicity level for mercury of 0.2 mg per liter, and would be classified as D009 characteristic hazardous waste. They would therefore meet the first regulatory criterion.

2. The Waste, or Category of Waste, Should Not Be Exclusive To a Particular Industry or Group of Industries, but Generated by a Wide Variety of Establishments (40 CFR 273.81(b))

Used mercury-containing equipment meets this criterion because it is discarded by many different kinds of generators. Although electric and gas utilities generate the largest number of such devices, many other businesses use instruments designed to measure or regulate pressure or temperature, such as thermometers, barometers and manometers. In addition, regulators, switches, and relays often contain mercury for use as an electric conductor. These devices are used widely in manufacturing industries, retail and commercial establishments (including the dairy industry), office complexes, hospitals, municipalities, and (in the case of certain wastes such as thermometers and mercury switches) domestic households. Sources of this wastestream are many and varied.

3. The Waste Should Be Generated by a Large Number of Generators and Generated Frequently, but in Relatively Small Quantities (40 CFR 273.81(c))

Spent mercury-containing equipment would meet this criterion even if electric utilities alone were counted. Some large electric utilities have several hundred individual generation points throughout their distribution network, including generating stations, service centers, substations, and transformer vaults. In addition, utilities perform servicing operations on meters, regulators, and other mercury-containing equipment at many customer locations; a large utility may have more than 1,000 customer sites. Most facilities, whether utilities or not, tend to generate mercury-containing wastes sporadically and in relatively small quantities because equipment failures are relatively numerous (due to the large number of generation points) and unpredictable, while not producing large quantities of waste equipment. The Utility Solid Waste Activities Group estimates that a single mid-sized electric utility generates from 2,000 to 4,000 pieces of mercury-containing equipment annually.

4. Systems To Be Used for Collecting the Waste (Including Packaging, Marking, and Labeling Practices) Should Ensure Close Stewardship of the Waste (40 CFR 273.81(d))

EPA believes that the universal waste program is a very effective way to ensure such stewardship. The Agency is today proposing to require small and large-quantity universal waste handlers of spent mercury-containing equipment to label or mark such equipment clearly, similar to the requirements for other handlers of universal wastes in 40 CFR 273.14 and 273.34.

To further encourage responsible stewardship, EPA is also proposing to require universal waste handlers of mercury-containing equipment to manage it in accordance with the universal waste management standards currently in place for used thermostats, because both kinds of devices contain mercury in ampules which are sometimes removed. Today's proposal would require handlers who remove ampules from spent mercury-containing equipment to comply with the provisions of 40 CFR 273.13 (described later in this notice).

5. The Risks Posed by the Waste During Accumulation and Transport Should Be Relatively low Compared to the Risks Posed by Other Hazardous Waste, and Specific Management Standards Would Be Protective of Human Health and the Environment During Accumulation and Transport (40 CFR 273.81(e))

The Agency believes that spent mercury-containing equipment poses risks that are relatively low compared to other hazardous wastes because they tend to be generated in relatively small amounts at any one time by each generator. In addition, the elemental mercury contained in such devices is generally fully enclosed within the equipment. The danger of spills and leaks during accumulation and transport is therefore low when the equipment is packaged correctly. In addition, USWAG has suggested, and the Agency is today proposing, that spent mercury-containing equipment be managed in accordance with the requirements of the universal waste rule at 40 CFR 273. These requirements will ensure that the devices are handled safely during accumulation and transport. Besides the provisions discussed above that are specific to accumulation, packaging, and transport of mercury-containing universal wastes, the universal waste program requires handlers to train employees in proper handling and emergency procedures and to contain all releases of universal wastes immediately. Handlers may accumulate universal wastes for no longer than one year.

The universal waste rule also contains several provisions which ensure safe transport. For example, handlers may send universal waste only to another universal waste handler, a destination facility, or a foreign destination. If the handler sends a universal waste off-site which meets the definition of hazardous materials under the Department of Transportation (DOT) regulations (49 CFR parts 171 through 180), the handler must package and label the shipment in accordance with those regulations and prepare the proper DOT shipping papers. If a handler of universal waste sends a shipment which is rejected, the handler must either take the waste back or agree with the rejecting facility to send the waste to a destination facility. If a handler receives a shipment containing hazardous waste that is not universal waste, the handler must immediately notify the appropriate EPA regional office. Finally, large quantity handlers of universal waste must keep records of each shipment of universal

waste received or sent off-site. These requirements ensure that spent mercury-containing devices will be transported safely.

6. Regulation of the Waste Under 40 CFR Part 273 Will Increase the Likelihood That the Waste Will Be Diverted From Non-Hazardous Waste Management Systems (*e.g.,* the Municipal Waste Stream, Non-Hazardous Industrial or Commercial Waste Stream, Municipal Sewer or Stormwater Systems) to Recycling, Treatment, or Disposal in Compliance With Subtitle C of RCRA (40 CFR 273.81(f))

If spent mercury-containing equipment was added to the universal waste program, thousands of sites that generate such devices would be considered handlers of universal wastes, rather than individual hazardous waste generators. Because the hazardous waste manifest would no longer be required, it would be easier to transport these wastes to central consolidation points. Collecting the wastes at such central points makes it easier to send them for recycling or for proper disposal, which makes it less likely that the wastes will be improperly disposed of in municipal landfills or incinerators. In addition, waste handlers that wish to consolidate large volumes of waste from conditionally exempt small quantity generators (CESQGs) must now obtain a RCRA permit if they accumulate more than 1000 kg of such waste on-site, pursuant to 40 CFR 261.5(g)(2). This requirement severely discourages the central collection of large amounts of CESQG waste. If spent mercury-containing equipment is included in the universal waste system, collectors of these wastes would be encouraged to gather these wastes (along with non-CESQG waste and household waste) for recycling or proper disposal. More of these materials would be kept out of the municipal wastestream if they were available for removal of elemental mercury and recycling of scrap metal.

In addition, if spent mercury-containing equipment is included in the universal waste program, handlers will be less likely to try to separate the hazardous and non-hazardous portions of this waste. Because the requirements of the universal waste rule are relatively streamlined, and because sampling of mercury-containing devices can sometimes be difficult, handlers will find it easier to manage the entire wastestream as universal waste. Therefore, waste that would otherwise go to municipal landfills or combustors would be sent for recycling or proper disposal. For these reasons, EPA believes that adding mercury-containing equipment to the universal waste program will help fulfill the criterion in 40 CFR 273.81(f).

7. Regulation of the Waste Under 40 CFR part 273 Will Improve the Implementation and Compliance With the Hazardous Waste Regulatory Program (40 CFR 273.81(g))

EPA believes that the requirements of the universal waste rule are particularly suited to the circumstances of handlers of spent mercury-containing equipment, and that their participation in the universal waste program will improve compliance with hazardous waste regulations. As stated earlier, spent mercury-containing equipment is generated sporadically and in small quantities by many geographically dispersed operations. The existence of so many distribution points, along with the small quantities of waste, makes compliance with full Subtitle C requirements very difficult. Compliance with full hazardous waste generator requirements is particularly difficult for electric or gas utility operations which are located on customers' properties. The requirements of the universal waste rule are clear and should be easily understood by the diverse community affected by this proposal, who will not need to spend an excessive amount of time and effort interpreting the regulations. In addition, because the rule does not require handlers to count universal wastes toward their monthly quantity determination, many handlers will find it easier to determine their hazardous waste generation rates. The Agency believes that the streamlined requirements of this proposal will make compliance more achievable, and that human health and the environment will benefit as a result.

C. What Are EPA's Proposed Management Requirements for Used Mercury-Containing Equipment?

1. Summary of Proposed Requirements

The universal waste rule classifies regulated persons managing universal waste into four categories: small quantity handlers of universal waste (SQHUWs), large quantity handlers of universal waste (LQHUWs), transporters, and destination facilities. The term ''universal waste handler'' is defined in 40 CFR 273.9 as a generator of universal waste; or the owner or operator of a facility that receives universal waste from other universal waste handlers, accumulates universal waste and sends it to another universal waste handler, a processor, a destination facility, or a foreign destination. The definition of ''universal waste handler'' does not include: (1) a person who treats (except under the provision of § 273.13(a) or (c), or § 273.33(a) or (c)), disposes of, or recycles universal waste; or (2) a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

Whether a universal waste handler is a SQHUW or LQHUW depends on the amount of universal waste being accumulated at any time. A SQHUW is defined under 40 CFR 273.9 as a universal waste handler who accumulates less than 5,000 kilograms of universal waste, calculated collectively at any time. The 5,000 kilogram accumulation limit applies to the total quantity of all universal waste handled on-site, regardless of the category of universal waste. If at any time a SQHUW accumulates 5,000 kilograms or more of universal waste, then the universal waste handler becomes a LQHUW for the calendar year in which 5,000 kilograms or more of universal waste was accumulated. A handler may re-evaluate his status as a LQHUW in the following calendar year. LQHUWs are subject to certain additional regulatory requirements.

The management requirements proposed today for mercury-containing equipment are generally the same as the existing requirements for mercury-containing thermostats. Under these proposed requirements, management standards for these universal wastes would not significantly differ from the current requirements of 40 CFR part 273. Our proposed definition of mercury-containing equipment was adapted from the regulatory definitions used by States which have added these materials to their universal waste programs.

Following is a more detailed description of today's proposed requirements for mercury-containing equipment.

2. Proposed Requirements for Small and Large Quantity Handlers

Under today's proposal, most of the existing universal waste requirements currently applicable to SQHUWs and LQHUWs would also apply to handlers of mercury-containing equipment. For both SQHUWs and LQHUWs, these requirements include waste management standards, labeling and marking, accumulation time limits, employee training, response to releases, requirements related to off-site shipments, and export requirements. LQHUWs are subject to additional notification and tracking requirements.

The Agency is proposing today to require SQHUWs and LQHUWs to manage mercury-containing equipment in accordance with the universal waste management standards currently in place for used thermostats, because both kinds of devices contain mercury in ampules which are sometimes removed. Today's proposal would require handlers who remove ampules from spent mercury-containing equipment to remove them in accordance with the provisions of 40 CFR 273.13. These provisions state that the ampules must be removed in a manner designed to prevent breakage, and that they must be removed only over or in a containment device. A mercury clean-up system would have to be readily available to immediately transfer any mercury from leaks or spills from broken ampules to a container. Handlers would be required to ventilate and monitor the area in which ampules are removed to ensure compliance with applicable standards of the Occupational Safety and Health Administration (OSHA) for exposure to mercury.

Employees of SQHUWs and LQHUWs would need to be thoroughly familiar with proper waste mercury handling and emergency procedures. They would be required to store removed ampules in closed, non-leaking containers, and pack removed ampules in containers with packing materials adequate to prevent breakage. Handlers who remove mercury-containing ampules would have to determine whether residues from spills or leaks exhibit a characteristic of hazardous waste. They would also be required to make this determination for any other solid waste generated during removal of the ampules. If the residues or other solid waste exhibits a characteristic of hazardous waste, it would have to be managed in accordance with all applicable requirements of 40 CFR parts 260 through 279, rather than as a universal waste.

The notification requirement proposed today for large quantity handlers of universal waste mercury-containing equipment is consistent with the existing notification requirement for LQHUWs of all other universal wastes (40 CFR 273.32). Under today's proposed rule, a large-quantity handler of mercury-containing equipment would be required to notify the Regional Administrator and receive an identification number before meeting or exceeding the accumulation limit. In addition, these handlers would be required to keep records of universal waste shipments received or sent off-site. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping document.

3. Proposed Requirements for Transporters

Under 40 CFR 273.9, the definition of a universal waste transporter is ''a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.'' Persons meeting the definition of universal waste transporter include those persons who transport universal waste from one universal waste handler to another, to a processor, to a destination facility, or to a foreign destination. These persons are subject to the universal waste transporter requirements of subpart D of part 273. The existing provisions apply to transporters of all types of universal waste, and, therefore, they would also apply to transporters of mercury-containing equipment. EPA notes that today's proposed rule would not affect the applicability of shipping requirements under the hazardous materials regulations of the Department of Transportation (DOT). Transporters would continue to be subject to these requirements if applicable (*see* 49 CFR 173.164 (Metallic Mercury and Articles Containing Mercury)).

4. Proposed Requirements for Destination Facilities

Today's notice does not propose to change any existing requirements applicable to destination facilities (subpart E of part 273).

5. Effect of Today's Proposed Rule on Household Wastes and Conditionally-Exempt Small Quantity Generators

Adding mercury-containing equipment to the definition of universal wastes would not substantially change the way households and conditionally-exempt small quantity generators (CESQGs) manage these devices. Household waste continues to be exempt from RCRA Subtitle C regulations under 40 CFR 261.4(b)(1). However, under the universal waste rule, households and CESQGs may voluntarily choose to manage their mercury-containing equipment in accordance with either the CESQG regulations under 40 CFR 261.5 or as universal waste under part 273 (40 CFR 273.8(a)(2)). If CESQG waste or household wastes are mixed with universal waste subject to the requirements of 40 CFR part 273, the comingled waste must be handled as universal waste in accordance with part 273. Under today's rule, such comingled waste would be subject to the 5000 kilogram threshold limit for large quantity handlers.

Hazardous waste mercury-containing equipment that is managed as universal waste under 40 CFR part 273 would not have to be included in a facility's determination of hazardous waste generator status (40 CFR 261.5(c)(6)). Therefore, if a generator were to manage such devices under the universal waste rule and did not generate any other hazardous waste, that generator would not be subject to other Subtitle C hazardous waste management regulations, such as the hazardous waste generator regulations in part 262. A generator that generates more than 100 kilograms of hazardous waste in addition to universal waste mercury-containing equipment would be regulated as a hazardous waste generator and would be required to manage all hazardous wastes not included within the scope of the universal waste rule in accordance with all applicable Subtitle C hazardous waste management standards.

6. Land Disposal Restriction Requirements (LDRs)

Under existing regulations (40 CFR 268.1(f)), universal waste handlers and transporters are exempt from the LDR notification requirements in 40 CFR 268.7 and the storage prohibition in § 268.50. Today's proposal would not change the regulatory status of destination facilities; they would remain subject to the full LDR requirements.

D. Solicitation of Comment on Universal Waste Notification Requirements

EPA is soliciting comment on a proposed change to the notification requirements of the universal waste rule. The current rule (40 CFR 273.32(b)(5)) requires large quantity handlers of universal waste (LQHUWs) to include in the notification sent to the Regional Administrator a statement indicating that the handler is accumulating more than 5,000 kg of universal waste at one time and the types of universal waste (*i.e.,* batteries, pesticides, thermostats, lamps, and mercury-containing equipment) the handler is accumulating above this quantity. The Agency believes that requiring LQHUWs to specify which types of universal waste exceed the 5,000 limit is unnecessary because the regulations already require LQHUWs to provide a list of all the types of universal waste managed by the handler (*see* 40 CFR 273.32(b)(4)). In addition, the requirement appears irrelevant because the 5,000 limit for determining whether a handler is a LQHUW applies to all universal waste accumulated by the handler, not to any particular universal waste. The Agency is therefore

proposing today to delete from 40 CFR 273.32(b)(5) the requirement to notify the Regional Administrator of which particular universal wastes exceed the 5,000 kg. accumulation limit. EPA solicits comment on whether this requirement serves a valid purpose for regulatory authorities, and on whether it is unduly burdensome for LQHUWs.

V. State Authority

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized states have primary enforcement responsibility. The standards and requirements for state authorization are found at 40 CFR part 271.

Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the federal program in that state. The federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in that state, since only the state was authorized to issue RCRA permits. When new, more stringent federal requirements were promulgated, the state was obligated to enact equivalent authorities within specified time frames. However, the new federal requirements did not take effect in an authorized state until the state adopted the federal requirements as state law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized states at the same time that they take effect in unauthorized states. EPA is directed by the statute to implement these requirements and prohibitions in authorized states, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA related provisions as state law to retain final authorization, EPA implements the HSWA provisions in authorized states until the states do so.

Authorized states are required to modify their programs only when EPA enacts federal requirements that are more stringent or broader in scope than existing federal requirements. RCRA section 3009 allows the states to impose standards more stringent than those in the federal program (*see* also 40 CFR 271.1). Therefore, authorized states may, but are not required to, adopt federal regulations, both HSWA and non-HSWA, that are considered less stringent than previous federal regulations.

B. Effect on State Authorization

Today's proposed rule is less stringent than the current federal program. Because states are not required to adopt less stringent regulations, they do not have to adopt the streamlined regulations for CRTs or the universal waste regulations for mercury-containing devices, although EPA encourages them to do so. Some states may already be in the process of streamlining their regulations for these materials or adding them to their list of universal wastes. If a state's standards for used CRTs or mercury-containing equipment are less stringent than those in today's rule, the state will need to amend its regulations to make them equivalent to today's standards and pursue authorization.

C. Interstate Transport

Because some states may choose not to seek authorization for today's proposed rulemaking, there will probably be cases when used CRTs, processed CRT glass, or mercury-containing equipment will be transported through states with different regulations governing these wastes.

First, a waste which is subject to an exclusion from the definition of solid waste or to the universal waste regulations may be sent to a state, or through a state, where it is subject to the full hazardous waste regulations. In this scenario, for the portion of the trip through the originating state, and any other states where the waste is excluded or is a universal waste, neither a hazardous waste transporter with an EPA identification number per 40 CFR 263.11 nor a manifest would be required. However, for the portion of the trip through the receiving state, and any other states that do not consider the waste to be excluded or a universal waste, the transporter must have a manifest, and must move the waste in compliance with 40 CFR part 263. In order for the final transporter and the receiving facility to fulfill the requirements concerning the manifest (40 CFR 263.20, 263.21, 263.22; 264.71, 264.72, 264.76 or 265.71, 265.72, and 265.76), the initiating facility should complete a manifest and forward it to the first transporter to travel in a state where the waste is not excluded or is not a universal waste. The receiving facility must then sign the manifest and send a copy to the initiating facility. EPA recommends that the initiating facility note in block 15 of the manifest (Special Handling Instructions and Additional Information) that the wastes are covered by an exclusion or under the universal waste regulations in the initiating state but not in the receiving facility's state.

Second, a hazardous waste generated in a state which does not provide an exclusion for the waste or regulate it as a universal waste may be sent to a state where it is excluded or regulated as a universal waste. In this scenario, the waste must be moved by a hazardous waste transporter while the waste is in the generator's state or any other states where it is not excluded or not a universal waste. The initiating facility would complete a manifest and give copies to the transporter as required under 40 CFR 262.23(a). Transportation within the receiving state and any other states that exclude the waste or regulate it as a universal waste would not require a manifest and need not be transported by a hazardous waste transporter. However, it is the initiating facility's responsibility to ensure that the manifest is forwarded to the receiving facility by any non-hazardous waste transporter and sent back to the initiating facility by the receiving facility (*see* 40 CFR 262.23 and 262.42). EPA recommends that the generator note in block 15 of the manifest (Special Handling Instructions and Additional Information) that the waste is excluded or covered under the universal waste regulations in the receiving facility's state but not in the generator's state.

Third, a waste may be transported across a state in which it is subject to the full hazardous waste regulations although other portions of the trip may be from, through, and to states in which it is excluded or covered under universal waste regulations. Transport through the State must be conducted by a hazardous waste transporter and must be accompanied by a manifest. In order for the transporter to fulfill its requirements concerning the manifest (subpart B of Part 263), the initiating facility must complete a manifest as required under the manifest procedures and forward it to the first transporter to travel in a state where the waste is not excluded or is not a universal waste. The transporter must deliver the manifest to, and obtain the signature of, either the next transporter or the receiving facility.

As more states streamline their regulatory requirements for these wastes, the complexity of interstate transport will be reduced.

VI. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to formal review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of the proposed regulatory action. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, the Agency has determined that today's proposed rule is a significant regulatory action because this proposed rule contains novel policy issues. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the docket to today's proposal.

To estimate the cost savings, incremental costs, economic impacts and benefits from this rule to affected regulated entities, we completed an economic analyses for this rule. Copies of these analyses (entitled ''Economic Analysis of Cathode Ray Tube Management, Notice of Proposed Rulemaking'' and ''Economic Analysis of Including Mercury-Containing Devices In the Universal Waste System, Notice of Proposed Rulemaking'') have been placed in the RCRA docket for public review. The Agency solicits comment on the methodology and results from the analysis as well as any data that the public feels would be useful in a revised analysis.

1. Methodology

To estimate the cost savings, incremental costs, economic impacts and benefits of this rule, the Agency estimated both the affected volume of cathode ray tubes (CRTs) [1] and regulated entities. Because CRTs are often not managed as hazardous wastes but rather along with municipal refuse, the Agency has evaluated two baseline (pre-regulatory) scenarios: (1) A Subtitle C scenario which modeled a distribution of affected monitors as if all affected entities were in compliance with Subtitle C regulation, and (2) a Subtitle D scenario which models a high percentage of CRTs being discarded untreated in municipal solid waste landfills. There is a lower degree of compliance with Subtitle C regulation in the Subtitle D scenario. However, this scenario is being analyzed to evaluate the real-world effect of this rule on affected entities.

The Agency has then modeled two post-regulatory scenarios: (1) The regulation being proposed today (hereafter referred to as the ''primary alternative''), and (2) the Common Sense Initiative recommendation (hereafter referred to as the ''CSI alternative''). The chief differences between the primary alternative and CSI alternative is that the former applies to both glass-to-glass recycling and lead smelters whereas the latter only applies to glass-to-glass recycling. The CSI alternative also includes additional management requirements for CRT handlers. Finally, the CSI alternative envisions streamlined management requirements for monitors but keeping them within RCRA Subtitle C jurisdiction as hazardous waste. By contrast, the primary alternative of today's proposal excludes previously regulated volumes of CRTs from the federal definition of solid and hazardous waste.

In our economic analysis, we have calculated administrative, storage, transportation and disposal/recovery costs for both baseline and post-regulatory scenarios and estimated the net cost savings and economic impacts for each combination of baseline/post-regulatory pair (Subtitle C/primary alternative, Subtitle C/CSI alternative, Subtitle D/primary alternative, Subtitle D/CSI alternative). The Subtitle C/primary alternative pair is the scenario that we are using to meet our administrative requirements following this section. This is so because it is appropriate to use a baseline scenario that reflects compliance with existing federal law and a post-regulatory scenario that is the leading scenario being proposed.

For mercury-containing equipment, we used a similar methodology in our economic analysis to the one we are using for CRTs. Again, because mercury-containing equipment is often managed in municipal solid waste, we have modeled two baselines, one reflecting compliance with Subtitle C management under existing law and the other reflecting ongoing management of a portion of discarded mercury-containing equipment in the municipal solid wastestream.

The benefits from today's proposed rulemaking are presented qualitatively. EPA solicits comment on the need and means to evaluate quantitative benefits from today's rule.

2. Results

a. Volume. Estimated volumes of CRTs subject to RCRA regulation are 16,100 tons of monitors under the Subtitle C baseline. We have estimated the affected volume of CRTs (including both previously regulated and diverted volumes of monitors) under the primary alternative at 17,500 tons and 17,700 under the CSI alternative when paired with the Subtitle C baseline. We believe that between 1500 and 1700 tons of CRTs would be diverted from export or hazardous waste landfill to CRT glass manufacturing under both the primary alternative and the CSI alternative. Estimated volumes of mercury-containing equipment affected by today's rule are 550 tons.

b. Cost/Economic Impact. We estimate that the primary alternative would save CRT handlers $3.5 million per year relative to the Subtitle C baseline. This cost savings comes from reduced administrative, transportation and disposal/management cost. We estimate that CSI alternative would save CRT handlers $1.15 million relative to the Subtitle C baseline, again primarily due to reduced administrative and disposal costs. However, unlike the primary alternative, transportation costs could actually be higher for the CSI alternative because this option does not include lead smelters. Thus, longer transportation distances to glass processors would be required.

To estimate the economic impact of the primary alternative and CSI alternative on CRT handlers, the Agency evaluated the cost savings or incremental costs as a percentage of firm sales. In virtually all cases economic impacts are cost savings at less than one

[1] **Note:** Many CRTs that exhibit the toxicity characteristic for lead are nonetheless not solid wastes that are also hazardous wastes for a number of different reasons. Some are considered household hazardous wastes which are excluded from the federal definition of hazardous wastes. *See* 40 CFR 261.4(b)(1). Other CRTs which are post-manufacturing but not post-consumer are excluded as commercial chemical products being reclaimed. *See* 40 CFR 261.2(c)(3). Thus, the fact that a CRT exhibits the toxicity characteristic for lead is not sufficient in and of itself to know that the monitor is a hazardous waste and affected by this rule.

percent of firm sales. The average savings for a previously regulated small quantity generator is $755 per year and $1740 per year for a previously regulated large quantity generator under the primary alternative. The average cost savings for previously regulated small and large quantity generators under the CSI alternative are estimated at $703 and $7819 respectively.

For mercury-containing equipment, we estimate cost savings resulting from today's proposal would be approximately $273,000 per year. Of this, about $200,000 in savings is attributed to generators of mercury-containing equipment, an average of $106 per generator per year. The remaining $73,000 is attributable to retorters and waste brokers. As with CRTs, the economic impact of these savings relative to firm sales is very small, *i.e.,* less than 0.1 percent of firm sales.

c. Benefits. EPA has evaluated the qualitative benefits and to a lesser extent, the quantitative benefits of the proposed rule for CRTs and mercury-containing equipment. Some of the benefits resulting from today's rule include conservation of landfill capacity, increase in resource efficiency, growth of a recycling infrastructure for CRTs and possible reduction of lead emissions to the environment from CRT recycling. EPA estimates that approximately 2600 tons or 456,000 cubic feet of CRTs per year would be redirected away from landfills towards recycling under the Agency's proposal today. In addition, as mentioned above, the use of processed CRT glass benefits the manufacturer in several ways, such as improving heat transfer and melting characteristics in the furnaces, lowering energy consumption, and maintaining or improving the quality of the final product. This rule will facilitate the growth and development of the CRT glass processing industry in the United States by reducing regulatory barriers to new glass processing firms becoming established. Finally, this rule will reduce lead emissions to the environment by diverting CRTs from municipal landfills and waste-to-energy facilities.

B. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that has fewer than 1000 or 100 employees per firm depending upon the SIC code the firm primarily is classified; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The small entity analysis conducted for today's proposal indicates that streamlining requirements for CRTs and mercury-containing equipment would generally result in savings to affected entities compared to baseline requirements. Under the full compliance scenario, the rule is not expected to result in a net cost to any affected entity. Thus, adverse impacts are not anticipated. Costs could increase for entities that are not complying with current requirements, but even these costs, which are not properly attributable to the current rulemaking, would not be expected to result in significant impacts on a substantial number of small entities.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. Information Collection Request (ICR) documents have been prepared (ICR No. 1189.10) for the proposed CRT requirements, and ICR No. 1597.05 for the proposed requirements for mercury-containing equipment. Copies may be obtained from Susan Auby by mail at U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001, by email at *auby.susan@epa.gov,* or by calling (202) 260–4901. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr*.

The information requirements established for this action, and identified in the Information Collection Request (ICR) supporting today's proposed rule, are largely self-implementing. This process will ensure that: (i) Regulated entities managing CRTs or mercury-containing equipment are held accountable to the applicable requirements; and (ii) state inspectors can verify compliance when needed. For example, the universal waste standards require LQHUWs and SQHUWs to demonstrate the length of time that mercury-containing equipment has been accumulated from the date they were received or became a waste. The standards also require LQHUWs and destination sites to keep records of all shipments received and sent. Further, the standards require waste handlers and processors to notify EPA under certain circumstances (e.g, when large amounts are accumulated or when illegal shipments are received).

EPA will use the collected information to ensure that mercury-containing equipment is being managed in a protective manner. These data aid the Agency in tracking waste shipments and identifying improper management practices. In addition, information kept in facility records helps handlers, processors, and destination sites to ensure that they and other facilities are managing these wastes properly. Section 3007(b) of RCRA and 40 CFR part 2, subpart B, which define EPA's general policy on the public disclosure of information, contain provisions for confidentiality. However, no questions of a sensitive nature are included in any of the information collection requirements associated with today's action.

EPA has carefully considered the burden imposed upon the regulated community by the regulations. EPA is confident that those activities required of respondents are necessary and, to the extent possible, has attempted to minimize the burden imposed. EPA believes strongly that if the minimum requirements specified under the regulations are not met, neither the facilities nor EPA can ensure that used CRTs and mercury-containing equipment are being managed in a manner protective of human health and the environment.

For the proposed requirements applicable to CRTs, the aggregate annual burden to respondents over the three-year period covered by this ICR is estimated at 10,426 hours, with a cost of approximately $687,000. Average annual burden hours per respondent are estimated to be 7 hours; there are an estimated 2400 respondents. This represents a reduction in burden to respondents of approximately 18,616. There are no capital or start-up costs,

operation or maintenance costs, and no costs for purchases of services. Nor is there any burden to the Agency. For the proposed requirements affecting mercury-containing equipment, the aggregate annual burden to respondents over the three-year period covered by this ICR is estimated at 114,770 hours, with a cost of approximately $825,158. Average annual burden hours per respondent are estimated to be 4.5 hours for small quantity handlers, 15 hours for large quantity handlers, 10 hours for treatment, storage, and disposal facilities, and 16 hours for transporters; there are an estimated 2495 respondents. This represents a reduction in burden of approximately 18,493 hours. The aggregate burden to the Agency is estimated at 377 hours, with a cost of $10,816.00. Total capital costs are estimated to be $1430 annually for all respondents, and operation and maintenance costs are estimated to be $113 annually for all respondents.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (Mail Code 2823), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to the Office of Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA''. Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after June 12, 2002, a comment to OMB is best assured of having its full effect if OMB receives it by July 12, 2002. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for the proposed and final rules with ''federal mandates'' that may result in expenditures by state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The Agency's analysis of compliance with the Unfunded Mandates Reform Act (UMRA) of 1995 found that today's proposed rule imposes no enforceable duty on any state, local or tribal government or the private sector. This proposed rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, or tribal governments or the private sector. In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Act generally excludes from the definition of ''federal intergovernmental mandate'' (in sections 202, 203, and 205) duties that arise from participation in a voluntary federal program. Today's proposed rule is voluntary, and because it is less stringent than the current regulations, state governments are not required to adopt the proposed changes. The UMRA generally excludes from the definition of ''Federal intergovernmental mandate'' duties that arise from participation in a voluntary federal program. The UMRA also excludes from the definition of ''Federal private sector mandate'' duties that arise from participation in a voluntary federal program. Therefore we have determined that today's proposal is not subject to the requirements of sections 202 and 205 of UMRA.

E. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

F. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the federal

government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes. This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175.

G. Executive Order 13045

''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potential effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866.

H. Executive Order 13211

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Today's proposed rule streamlines hazardous waste management requirements for used cathode ray tubes and mercury-containing equipment. By encouraging reuse and recycling, the rule may save energy costs associated with manufacturing new materials. It will not cause reductions in supply or production of oil, fuel, coal, or electricity. Nor will it result in increased energy prices, increased cost of energy distribution, or an increased dependence on foreign supplies of energy.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, though OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not establish technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Environmental Justice

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (February 11, 1994) is designed to address the environmental and human health conditions of minority and low-income populations. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. In response to Executive Order 12898, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17). To address this goal, EPA conducted a qualitative analysis of the environmental justice issues under this proposed rule. Potential environmental justice impacts are identified consistent with the EPA's Environmental Justice Strategy and the OSWER Environmental Justice Action Agenda.

Today's proposed rule would streamline hazardous waste management requirements for used cathode ray tubes sent for recycling. It would also streamline such requirements for mercury-containing equipment by adding this equipment to the federal universal waste rule. Facilities that would be affected by today's rule include any facility generating hazardous waste computers and televisions sent for recycling, and any facility generating hazardous waste mercury-containing equipment sent for recycling or disposal. Also affected would be facilities which recycle these materials. Disposal facilities themselves would not be affected by today's proposed rule.

The wide distribution of affected facilities throughout the United States does not suggest any distributional pattern around communities of concern. Any building in any area could be affected by today's proposal. Specific impacts on low income or minority communities, therefore, are undetermined. The Agency believes that emissions during transportation would not be a major contributor to communities of concern through which used CRTs and mercury-containing equipment may be transported. Any such material broken during transport would be contained in the required packaging. Overall, no disproportional impacts to minority or low income communities are expected.

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Waste treatment and disposal.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Hazardous materials, Packaging and containers, Security measures, Surety bonds.

40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 270

Environmental protection, Hazardous materials transportation, Reporting and recordkeeping requirements.

40 CFR Part 273

Environmental protection, Hazardous materials transportation, Hazardous waste.

Dated: May 17, 2002.

Christine T. Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations, parts 260, 261, 264, 265, 268, 270 and 273, are amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B—Definitions

2. Section 260.10 is amended by adding in alphabetical order the definitions of ''Cathode ray tube,'' ''CRT glass manufacturing facility,'' ''CRT glass processor,'' and ''Mercury-containing equipment'' and by republishing the introductory text of and adding paragraph (5) to the the definition of ''Universal Waste'' to read as follows:

§ 260.10 Definitions.

* * * * *

Cathode ray tube or CRT means a vacuum tube, composed primarily of glass, which is the video display component of a television or computer monitor. An intact CRT means a CRT remaining within the monitor whose vacuum has not been released. A broken CRT means glass removed from the monitor after the vacuum has been released.

* * * * *

CRT glass manufacturing facility means a facility or part of a facility that uses a furnace to manufacture CRT glass.

* * * * *

CRT processing means conducting all of the following activities:

(1) Receiving broken or intact CRTs;

(2) Intentionally breaking intact CRTs or further breaking or separating broken CRTs;

(3) Sorting or otherwise managing glass removed from CRT monitors; and

(4) Cleaning coatings off the glass removed from CRTs.

* * * * *

Mercury-containing equipment means a device or part of a device (excluding batteries, thermostats, and lamps) that contains elemental mercury necessary for its operation.

* * * * *

Universal Waste means any of the following hazardous wastes that are managed under the universal waste requirements of part 273 of this chapter:

* * * * *

(5) Mercury-containing equipment as described in § 273.6 of this chapter.

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

Subpart A—General

4. Section 261.4 is amended by adding a new paragraph (a)(23) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(23) Used cathode ray tubes (CRTs)

(i) Used intact CRTs as defined in § 260.10 are not solid wastes unless disposed. No restrictions on speculative accumulation as defined in § 261.1 apply.

(ii) Used, broken CRTs as defined in § 260.10 are not solid wastes provided that they meet the requirements of § 261.39.

* * * * *

5. Section 261.9 is amended by adding a new paragraph (e) to read as follows:

§ 261.9 Requirements for universal waste.

* * * * *

(e) Mercury-conteaining equipment as described in § 273.6 of this chapter.

6. Section 261.38 of subpart D is transferred to Subpart E which is added to read as follows:

Subpart E—Exclusions/Exemptions

Sec.

261.38 Comparable/Syngas Fuel Exclusion.
261.39 Conditional Exclusion for Broken, Used Cathode Ray Tubes (CRTs) Undergoing Recycling.

Subpart E—Exclusions/Exemptions

§ 261.38 Comparable/Syngas Fuel Exclusion.

* * * * *

§ 261.39 Conditional Exclusion for Broken, Used Cathode Ray Tubes (CRTs) Undergoing Recycling.

Broken, used CRTs are not solid wastes if they meet the following conditions:

(a) *Prior to processing:* These materials are not solid wastes if they are destined for recycling and if they meet the following requirements:

(1) *Storage.* The broken CRTs must be either:

(i) Stored in a building with a roof, floor, and walls, or

(ii) Placed in a container (*i.e.,* a package or a vehicle) that is constructed, filled, and closed to minimize identifiable releases to the environment of CRT glass (including fine solid materials).

(2) *Labeling.* Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: ''Waste cathode ray tube(s)—contains leaded glass,'' or ''Used cathode ray tube(s)—contains leaded glass.'' It must also be labeled: ''Do not mix with other glass materials.''

(3) *Transportation.* These CRTs must be transported in a container meeting the requirements of paragraphs(a)(1)(ii) and (2) of this section.

(4) *Speculative accumulation.* These CRTs are subject to the limitations on speculative accumulation as defined in § 261.1.

(b) *Requirements for used CRT processing:* Used, broken CRTs undergoing CRT processing as defined in § 260.10 are not solid wastes if they meet the following requirements:

(1) *Storage.* Broken CRTs undergoing processing are subject to the requirements of paragraphs (a)(1), (2), and (4) of this section.

(2) *Processing.*

(i) All CRTs must be processedwithin a building with a roof, floor, and walls; and

(ii) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

(c) *Processed CRT glass sent to CRT glass making or lead smelting:* Glass removed from used CRTs that is destined for recycling at a CRT glass manufacturing facility or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in § 261.1. Imported, processed glass from used CRTs is subject to these requirements as soon as it enters the United States.

(d) *Processed CRT glass sent to other types of recycling, except for use constituting disposal:* Glass removed from used CRTs that is destined for other types of recycling after processing (except use constituting disposal) is not a solid waste if it meets the requirements of paragraphs (a)(1)–(4) of this section. Imported, processed glass removed from used CRTs is subject to these requirements as soon as it enters the United States.

(e) *Use constituting disposal:* Processed glass removed from CRT monitors that is used in a manner constituting disposal must comply with the requirements of paragraphs (a)(1)–(4) of this section and the applicable

requirements of part 266, subpart C of this chapter. Imported, processed glass from used CRTs is subject to these requirements as soon as it enters the United States.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT STORAGE AND DISPOSAL FACILITIES

7. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart A—General

8. Section 264.1 is amended by adding a new paragraph (g)(11)(v) to read as follows:

§ 264.1 Purpose, scope, and applicability.

* * * * *

(g) * * *

(11) * * *

(v) Mercury-containing equipment as described in § 273.6 of this chapter.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

9. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937.

Subpart A—General

10. Section 265.1 is amended by adding a new paragraph (c)(14)(v) to read as follows:

§ 265.1 Purpose, scope and applicability.

* * * * *

(c) * * *

(14) * * *

(v) Mercury-containing equipment as described in § 273.6 of this chapter.

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

11. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A—General

12. Section 268.1 is amended by adding a new paragraph (f)(5) to read as follows:

* * * * *

(5) Mercury-containing equipment as described in § 273.6 of this chapter.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

13. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

Subpart A—General Information

14. Section 270.1 is amended by adding a new paragraph (c)(2)(viii)(E) to read as follows:

§ 270.1 Purpose and scope of these regulations.

* * * * *

(c) * * *

(2) * * *

(viii) * * *

(E) Mercury-containing equipment as described in § 273.6 of this chapter.

* * * * *

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

15. The authority citation for part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937.

Subpart A—General

* * * * *

16. Section 273.1 is amended by adding a new paragraph (a)(5) to read as follows:

§ 273.1 Scope.

(a) * * *

(5) Mercury-containing equipment as described in § 273.6.

* * * * *

17. A new § 273.6 is added to read as follows:

§ 273.6 Applicability—Mercury-containing equipment.

(a) *Mercury-containing equipment covered under this part 273.* The requirements of this part apply to persons managing mercury-containing equipment as described in § 273.9, except those listed in paragraph (b) of this section.

(b) *Mercury-containing equipment not covered under this part 273.* The requirements of this part do not apply to persons managing the following mercury-containing equipment:

(1) Mercury-containing equipment that is not yet a waste under part 261 of this chapter. Paragraph (c) of this section describes when mercury-containing equipment becomes a waste.

(2) Mercury-containing equipment that is not a hazardous waste. Mercury-containing equipment is a hazardous waste if it exhibits one or more of the characteristics identified in part 261, subpart C of this chapter.

(c) *Generation of waste mercury-containing equipment.* (1) Used mercury-containing equipment becomes a waste on the day it is discarded.

(2) Unused mercury-containing equipment becomes a waste on the day the handler decides to discard it.

18. Section 273.9 is amended by adding in alphabetical order the definition of ''Mercury-containing equipment'' and revising the definitions of ''Large quantity handler of universal waste,'' ''Small quantity handler of universal waste,'' and republishing the introductory text of and adding paragraph (5) to the definition of ''Universal waste'' to read as follows:

§ 273.9 Definitions.

* * * * *

Large Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, thermostats, lamps, or mercury-containing equipment, calculated collectively) at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram limit is met or exceeded.

* * * * *

Mercury-containing equipment means a device or part of a device (excluding batteries, thermostats, and lamps) that contains elemental mercury necessary for its operation.

* * * * *

Small Quantity Handler of Universal Waste means a universal waste handler (as defined in this section) who does not accumulate 5,000 kilograms or more of universal waste (batteries, pesticides, thermostats, lamps, or mercury-containing equipment, calculated collectively) at any time.

* * * * *

Universal Waste means any of the following hazardous wastes that are subject to the universal waste requirements of this part 273:

* * * * *

(e) Mercury-containing equipment as described in § 273.6.

* * * * *

Subpart B—Standards for Small Quantity Handlers of Universal Waste

19. Section 273.13 is amended by revising paragraph (c) to read as follows:

§ 273.13 Waste management.

* * * * *

(c) *Universal waste thermostats and mercury-containing equipment.* A small quantity handler of universal waste must manage universal waste thermostats and mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste must place in a container any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the thermostat or device, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler:

(i) Removes the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device (tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from that containment device to a container that meets the requirements of 40 CFR 262.34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation, and

(3)(i) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment must determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR part 261, subpart C:

(A) Mercury or clean-up residues resulting from spills or leaks, and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (*e.g.,* remaining thermostat units or mercury-containing equipment).

(ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with 40 CFR part 262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.

20. Section 273.14 is amended by adding a new paragraph (f) to read as follows:

§ 273.14 Labeling/marking.

* * * * *

(f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Mercury-Containing Equipment,'' or ''Waste Mercury-Containing Equipment,'' or ''Used Mercury-Containing Equipment.''

Subpart C—Standards for Large Quantity Handlers of Universal Waste

21. Section 273.32 is amended by revising paragraphs (b)(4) and (b)(5) to read as follows:

§ 273.32 Notification.

* * * * *

(b) * * *

(4) A list of all the types of universal waste managed by the handler (*e.g.,* batteries, pesticides, thermostats, lamps, and mercury-containing equipment);

(5) A statement indicating that the handler is accumulating more than 5,000 kg of universal waste at one time and the types of universal waste (*i.e.,* batteries, pesticides, thermostats, lamps, and mercury-containing equipment) the handler is accumulating above this quantity.

22. Section 273.33 is amended by revising paragraph (c) to read as follows:

§ 273.33 Waste management.

* * * * *

(c) *Universal waste thermostats and mercury-containing equipment.* A large quantity handler of universal waste must manage universal waste thermostats and mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste must contain any universal waste thermostat or mercury-containing equipment that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat and/or equipment, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats or mercury-containing equipment provided the handler:

(i) Removes the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes ampules only over or in a containment device (tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from that containment device to a container that meets the requirements of 40 CFR 262.34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR 262.34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation, and

(3)(i) A large quantity handler of universal waste who removes mercury-containing ampules from thermostats or mercury-containing equipment must determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR part 261, subpart C:

(A) Mercury or clean-up residues resulting from spills or leaks, and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (*e.g.,* remaining thermostat units or mercury-containing equipment).

(ii) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 40 CFR parts 260 through 272. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with 40 CFR part 262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid waste regulations.

* * * * *

23. Section 273.34 is amended by adding a new paragraph (f) to read as follows:

§ 273.34 Labeling/marking.

* * * * *

(f) Mercury-containing equipment, or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: ''Universal Waste—Mercury-Containing Equipment,'' or ''Waste Mercury-Containing Equipment,'' or ''Used Mercury-Containing Equipment.''

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