

ILLINOIS POLLUTION CONTROL BOARD

February 6, 2014

IN THE MATTER OF:)
RCRA SUBTITLE C UPDATE, USEPA) R14-13
AMENDMENTS (July 1, 2013 through) (Identical-in-Substance
December 31, 2013 and January 3, 2014)) Rulemaking - Land)

Proposed Rule. Proposal for Public Comment.

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

SUMMARY OF TODAY'S ACTION

This opinion and accompanying order propose amendments that would update the Illinois hazardous waste regulations to include amendments adopted by the United States Environmental Protection Agency (USEPA) during the second half of calendar year 2013. During this time USEPA adopted conditional exclusions from the definitions of solid waste and hazardous waste for solvent-contaminated wipes, on July 31, 2013. The Board has added one action that occurred after the nominal time-frame of this docket: a conditional exclusion from regulation as hazardous waste that USEPA adopted on January 3, 2014. The conditional exclusion applies to carbon dioxide streams that are injected into Class VI carbon sequestration wells. This opinion and order responds to these two USEPA actions.

The Board has further included limited corrective amendments that are not directly derived from current USEPA amendments. The Board has proposed the following corrective amendments: (1) correcting spellings and hyphenation of words; (2) adding *United States Code* citations to federal statutory citations; (3) adding quotation marks to required certification statements; (4) correcting punctuation; (5) removal of a past effective date; (6) adding a missing incorporation by reference statement; and (7) adding descriptive language to cross-references to regulations.

This is an identical-in-substance rulemaking to incorporate revisions to the federal hazardous waste regulations into the Illinois hazardous waste regulations. Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2012)) require the Board to adopt regulations that are "identical in substance" to hazardous waste regulations adopted by the USEPA. These USEPA rules implement Subtitle C of the federal Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C) (42 U.S.C. §§ 6921 *et seq.* (2011)). The federal RCRA Subtitle C hazardous waste management (HWM) regulations are found at 40 C.F.R. 260 through 268, 270 through 273, and 279. USEPA adopted the underlying federal hazardous waste amendments during the time period of July 1, 2013 through December 31, 2013 and again on January 3, 2014.

Section 22.4(a) also provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2012)) do not apply to the Board's adoption of identical-in-substance regulations.

This opinion and order proposes identical-in-substance amendments to 35 Ill. Adm. Code 720 and 721 for public comment. This proposal for public comment would also make limited

non-substantive corrections and stylistic revisions to segments of the text that are not otherwise affected by the covered federal amendments.

The Board will cause the proposed amendments to be published in the *Illinois Register* and will hold the docket open to receive public comments for 45 days after the date of publication. The Board presently intends to adopt final amendments based on this proposal on or before the statutory due date of July 31, 2014, as is explained below.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

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

Docket R14-13: July 1, 2013 through December 31, 2013 Amendments

USEPA amended the federal hazardous waste regulations once during the period July 1, 2013 through December 31, 2013. The USEPA action that requires corresponding amendments to the Illinois regulations are summarized below:

July 31, 2013 (78 Fed. Reg. 46448): Exemption of Solvent-Contaminated Wipes from the Definitions of Solid Waste and Hazardous Waste

Description of the USEPA action: USEPA adopted conditional exclusions for used solvent wipes. Used solvent wipes that are cleaned are conditionally exempt from the definition of solid waste. Used solvent wipes that are disposed of are conditionally exempt from the definition of hazardous waste.

Necessary Board action in response: The Board must incorporate the new conditional exclusions into the Illinois hazardous waste requirements.

One Later RCRA Subtitle C (Hazardous Waste) Amendments of Interest

The Board engages in ongoing monitoring of federal actions. As of the date of this opinion and accompanying order, the Board has identified one USEPA action since December 31, 2013 that further affected the RCRA Subtitle C hazardous waste rules in a way that warrants immediate Board attention. That action is described as follows:

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

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

Necessary Board action in response: The Board must incorporate the new conditional exclusion into the Illinois hazardous waste requirements.

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

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

Federal Action Date (citation)	Description of the Action
July 31, 2013 (78 Fed. Reg. 46448)	Conditional exclusions from the definitions of solid waste and hazardous waste for used solvent wipes.
January 3, 2014 (79 Fed. Reg. 350)	Conditional exclusion from regulation as hazardous waste for carbon dioxide streams injected into a Class VI carbon sequestration well.

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

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

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

The Board notes the pending consolidated update docket, UIC Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-1, RCRA Subtitle D (Municipal Solid Waste Landfill) Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-2, and RCRA Subtitle C (Hazardous Waste) Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-3 (Dec. 5, 2013), proposed amendments to several incorporations by reference to segments of the *Code of Federal Regulations* in 35 Ill. Adm. Code 720.111(b). The Board has identified a limited number of additional necessary updates to these incorporations by reference. The Board has included these additional necessary updates in this docket.

In order to ensure inclusion of the amendments proposed in the presently pending R14-1/R14-2/R14-3 consolidated update docket in the text of the adopted amendments in the present R14-13 docket, the Board has included the R14-1/R14-2/R14-3 amendments in the R14-13 docket. The R14-1/R14-2/R14-3 amendments are highlighted in the text of the amendments that appears in the order segment of this opinion and order.

Table 2 of this opinion and order itemizes the amendments proposed in the consolidated docket R14-1/R14-2/R14-3 that the Board has included in this R14-13 docket. Table 3 itemizes the additional updates added in this docket R14-13.

PUBLIC COMMENTS

The Board will receive public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*. The presently projected date for publication is in the February 28, 2014 issue of the *Illinois Register*. If the Board manages to gain publication on that date, the public comment period will end on April 14, 2014. After that time, the Board will immediately consider adoption of the amendments, making any necessary changes made after consideration of the public comments. Of course, an earlier or later date of publication would result in an earlier or later expiration of the 45-day public comment period.

The Board will delay filing any adopted rules with the Secretary of State for 30 days after adoption, particularly to allow additional time for USEPA to review the adopted amendments before they are filed and become effective. If USEPA expressly waives this 30-day review period in writing, the Board could file the adopted amendments prior to expiration of the 30-day period.

This opinion and order includes a number of general and specific requests for public comment on aspects of the proposed amendments. Those requests throughout the discussion segment of this opinion and order.

DUE DATE AND TIMETABLE FOR COMPLETION

Under Section 7.2 of the Act (415 ILCS 5/7.2(b) (2012)), the Board must complete this rulemaking within one year of the date of the earliest set of federal amendments considered in this docket. USEPA adopted the earliest federal amendments that required Board attention on July 31, 2013, so that the nominal statutory deadline for Board adoption of these amendments is July 31, 2014.

Adoption of a proposal for public comment today places this rulemaking several weeks ahead of the schedule required for timely adoption. This may allow final action on the amendments according to the following accelerated schedule:

Date of Board vote to propose amendments:	February 6, 2014
Submission for <i>Illinois Register</i> publication:	February 18, 2014
Probable <i>Illinois Register</i> publication date:	February 28, 2014
Probable End of 45-day public comment period:	April 14, 2014
Date of Board vote to adopt amendments:	May 1, 2014
End of 30-day hold period for USEPA review:	May 31, 2014
Probable filing and effective date:	June 10, 2014
Probable <i>Illinois Register</i> publication date:	June 21, 2014

DISCUSSION

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

Discussion of the Particular Federal Actions Involved in This Docket

Conditional Exclusions of Used Solvent Wipes from the Definitions of Solid Waste and Hazardous Waste—Sections 720.110, 720.111, and 721.104

On July 31, 2013 (78 Fed. Reg. 46448), USEPA adopted exclusions for used solvent wipes from the definitions of solid waste and hazardous waste. Solvent-contaminated wipes that are cleaned and re-used are conditionally excluded from the definition of solid waste. Solvent-contaminated wipes that are disposed of are conditionally excluded from the definition of hazardous waste.¹ Both exclusions apply from the point of generation. 40 C.F.R. 261.4(a)(26) and (b)(18), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26) and (b)(18)).

What is Covered by the Exclusions. A wipe can be any “woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.” 40 C.F.R. 260.10 (2013), as amended at 78 Fed. Reg. at 46484 (definition of “wipe”;

¹ Even though excluded from the definition of hazardous waste, these items are defined as solid waste, unless otherwise excluded. See 40 C.F.R. 261.2(a)(1), 261.3(a) (2013) (corresponding with 35 Ill. Adm. Code 721.102(a)(1) and 721.103(a)).

corresponding with 35 Ill. Adm. Code 720.110). A solvent-contaminated wipe is defined as a “wipe that, after use or after cleaning up a spill,” is described as follows:

- The wipe contains one or more of the solvents listed in the hazardous waste listings F001 through F005, including their P- and U-listed solvents;
- The wipe exhibits a characteristic of hazardous waste due to the presence of a solvent listed in 40 C.F.R. 261; or
- The wipe exhibits the characteristic of ignitability due to the presence of a listed solvent. 40 C.F.R. 260.10 (2013), as amended at 78 Fed. Reg. at 46484 (¶ (1) of definition of “solvent-containing wipe”; corresponding with 35 Ill. Adm. Code 720.110).

A solvent-contaminated wipe that contains any hazardous waste other than solvent or which exhibits the characteristic of toxicity, corrosivity, or reactivity due to the presence of any contaminant other than solvent is not eligible for exclusion. 40 C.F.R. 260.10 (2013), as amended at 78 Fed. Reg. at 46484 (¶ (2) of definition of “solvent-containing wipe”; corresponding with 35 Ill. Adm. Code 720.110).

Category 1: Wipes That Contain F001 Through F005 Spent Solvents. The F001 through F005 hazardous waste descriptions in 40 C.F.R. 261.31(a) (corresponding with 35 Ill. Adm. Code 721.131(a)) appear as follows (with the named solvents underlined):

- F001 The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.
- F002 The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.
- F003 The following spent non-halogenated solvents: Xylenes, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

- F004 The following spent non-halogenated solvents: Cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.
- F005 The following spent non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

There are 31 chemical compounds and classes of compounds² specifically identified in the foregoing hazardous waste descriptions. Each of these also appears in 40 C.F.R. 261.33(e) and (f) with P- and U- hazardous waste designations when they are commercial chemical products, manufacturing chemical intermediates, or off-specification chemical products or manufacturing intermediates. The 31 compounds and their associated hazardous waste numbers are the following:

acetone	F003, U002
benzene	F005, U019
n-butyl alcohol	F003, U031
carbon disulfide	F005, P022
carbon tetrachloride	F001, U211
chlorobenzene	F002, U037
chlorinated fluorocarbons ³	F001
cresols	F004, U052
cresylic acid	F004, U052
cyclohexanone	F003, U057
ortho-dichlorobenzene	F002, U070
2-ethoxyethanol	F005, U359
ethyl acetate	F003, U112
ethyl benzene	F003
ethyl ether	F003, U117
isobutanol	F005, U140
methanol	F003, U154

² The classes of compounds are chlorinated fluorocarbons, cresols, cresylic acid, and xylenes. There is an indefinite number of chlorofluorocarbons that can be used as solvents. Two of the isomers are individually included in this listing: trichlorofluoromethane and 1,1,2-trichloro-1,2,2-trifluoroethane. There **are** three isomers each of cresols and xylenes. Cresylic acid is a mixture of all three cresol isomers.

³ Chlorofluorocarbons specifically listed in 40 C.F.R. 261.33 are dichlorodifluoromethane (U075) and trichlorofluoromethane (U121).

methylene chloride	F001, F002, U080
methyl ethyl ketone	F005, U159
methyl isobutyl ketone	F003, U161
nitrobenzene	F004, U169
2-nitropropane	F005, U171
pyridine	F005, U196
tetrachloroethylene	F001, F002, U210
toluene	F005, U220
1,1,1-trichloroethane	F001, F002, U226
1,1,2-trichloroethane	F002, U227
trichloroethylene	F001, F002, U228
trichlorofluoromethane	F002, U121
1,1,2-trichloro-1,2,2-trifluoroethane	F002
xylenes	F003, U239

Category 2: Wipes That Exhibit a Hazardous Characteristic from a Listed Solvent.

This second category of excluded wipes presumably does not include the above-described first category of excluded solvent-contaminated wipes that contain the 31 solvents from the F001, F002, F003, F004, and F005 listings, including the 28 associated hazardous waste listings associated with the spent solvents in the foregoing first category F001 through F005 hazardous waste listings: P022, U002, U019, U031, U037, U052, U052, U057, U070, U080, U112, U117, U121, U140, U154, U159, U161, U169, U171, U196, U210, U211, U220, U226, U227, U228, U239, and U359. Other listed-wastes must be intended for the second category.

Beyond the inference that USEPA intended to include solvents other than those listed in the first category, the solvents intended by “a solvent listed in [40 C.F.R. 261]” (40 C.F.R. 260.10 (definition of “solvent-containing wipe”), as added at 79 Fed. Reg. at 46484) are not readily capable of listing. The solvents listed in 40 C.F.R. 261 (*see* 40 C.F.R. 261.10 (2013), as amended at 78 Fed. Reg. at 46484 (§ (1)(ii) of the definition of “solvent-containing wipe) (corresponding with 35 Ill. Adm. Code 721.110)) could potentially include F wastes from non-specific sources; K wastes from specific sources; and P and U wastes from discarded commercial chemical products, off-specification species, and spill and container residues of these items. *See* 40 C.F.R. 261.31 through 261.33 (2013) (corresponding with 35 Ill. Adm. Code 721.131 through 721.133).

Appendix VII to 40 C.F.R. 261 (corresponding with Appendix G to 35 Ill. Adm. Code 721) lists the hazardous constituents that caused the listing of each F- and K-listed hazardous waste.⁴ Examination of the entries for F-listed wastes in appendix VII reveals that several entries list contaminants that have solvent uses, but each of these appears to include at least one hazardous constituent that has no solvent uses. For example, F024 and F025⁵ include such

⁴ Since P- and U-listed wastes are all based on the names of commercial chemical products, there is no need to list their hazardous constituents in Appendix VII.

⁵ F024 and F025 are wastes from production of chlorinated aliphatic hydrocarbons by free radical catalyzed processes.

chemicals as dichloromethane, trichloromethane, 1,1,1-trichloroethane, chlorobenzene, benzene, toluene, and others that serve solvent uses. Yet the F024 and F025 listings also include naphthalene, a polynuclear aromatic hydrocarbon that has no use as a solvent. *See* appendix VII to 40 CFR 261 (2013) (corresponding with Appendix G to 35 Ill. Adm. Code 721). K018⁶ includes such solvents as 1,2-dichloroethane, hexachlorobutadiene, and trichloroethylene, but K018 also hexachlorobenzene, which has no solvent uses. K019 and K020⁷ include such solvents as ethylene dichloride, 1,1,1-trichloroethane, and chloroform, and trichloroethylene, but they also contain vinyl chloride and vinylidene chloride, which are chemical intermediates.

Other F- and K-listed waste entries have no solvent uses. For example, F006⁸ lists hexavalent cadmium, chromium, nickel, and cyanide. F007 through F012⁹ all list only cyanide. F020 through F023 list various dioxins, furans, chlorinated phenols, and other non-solvent constituents. The situation is similar for the K-listed wastes. For example, K002, K003, and K005¹⁰ list hexavalent chromium and lead, and K004, K006, and K008¹¹ list only hexavalent chromium.

It would appear, based on the foregoing, that the exclusions for solvent-contaminated wipes would not apply to F- and K-listed wastes (other than F001 through F005 waste) due to the presence of non-solvent hazardous constituents. The definition of “solvent-contaminated wipe” includes the following limitation:

Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions 40 C.F.R. 260.10 (2013) (¶ (2) of definition of “solvent-containing wipe”; citations to the exclusions omitted; corresponding with 35 Ill. Adm. Code 720.110).

USEPA stated as follows in the *Federal Register* discussion of the exclusions:

Solvent-contaminated wipes that contain listed hazardous waste other than solvents, or [which] exhibit the characteristic of toxicity, corrosivity, or reactivity

⁶ K018 is waste from ethyl chloride production. *See* 40 C.F.R. 261.32(a) table (2013) (corresponding with 35 Ill. Adm. Code 721.132(a)).

⁷ K019 is waste from ethylene dichloride production, and K020 is waste from vinyl chloride production. *See Id.*

⁸ Waste from electroplating operations. *See* 40 C.F.R. 261.31(a) table (2013) (corresponding with 35 Ill. Adm. Code 721.131(a)).

⁹ Wastes from electroplating and metal heat-treating operations. *See Id.*

¹⁰ Wastes from inorganic pigments production. *See* 40 C.F.R. 261.32(a) (2013) (corresponding with 35 Ill. Adm. Code 721.132(a)).

¹¹ Wastes from inorganic pigments production. *See Id.*

due to contaminants other than solvents (such as metals), are not eligible for the exclusion 78 Fed. Reg. at 46455, 46458 (two identical segments of discussion; citations to the exclusions omitted).

The P- and U-listed wastes appear to be the only possible listed hazardous wastes that would fall within the second category of excluded solvent-containing wipes. Since they represent single compounds or classes of compounds, the P- and U-listed wastes are easy to discern as deriving their hazardous characteristic from solvent. P- and U-listed wastes are defined as “commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products.”¹² 40 C.F.R. 261.33(e) and (f) (2013) (identical language in parallel provisions). Many of the P- and U-listed wastes are solvents.¹³

The analysis then shifts to the limitation that the solvent-containing wipe exhibits only the characteristics of hazardous waste that result from the contained listed solvent(s). There are four characteristics of hazardous waste: ignitability, corrosivity, reactivity, and toxicity.

- Generally, an ignitable waste (hazardous waste number D001) can readily combust or cause or support combustion. 40 C.F.R. 261.21 (2013) (corresponding with 35 Ill. Adm. Code 721.121).
- A corrosive waste (hazardous waste number D002) is one that is aqueous and has a high or low pH (high alkalinity or high acidity) or which is a liquid that can corrode steel. 40 C.F.R. 261.22 (2013) (corresponding with 35 Ill. Adm. Code 721.122).
- A reactive waste (hazardous waste number D003) is (1) one that is normally unstable and which can readily undergo violent change without detonation; (2) one that can form an explosive mixture with water; (3) one that generates toxic gasses, vapors, or fumes when mixed with water; (4) one that is a cyanide or sulfide can generate toxic vapors, vapors, or fumes when exposed to aqueous acids; (5) one that is capable of detonation or explosive reaction of subject to a strong initiating source or if heated under confinement; (6) one that is capable of detonation or explosive reaction at normal temperature and pressure; or (7) one that falls within specified USDOT

¹² The distinction between them is that P-listed wastes are defined as acute hazardous waste to which more stringent requirements apply. *Compare* 40 C.F.R. 261.33(e) (2013) (corresponding with 35 Ill. Adm. Code 721.133(e)) *with* 40 C.F.R. 261.33(f) (corresponding with 35 Ill. Adm. Code 721.133(f)).

¹³ Examples include allyl alcohol (hazardous waste no. P005), cyclohexane (U056), dibromomethane (U068), 1,1-dichloroethylene (U076), 1,2-dichloroethylene (U077), dichloromethane (U080), 2-ethoxyethanol (U359), methanol (U154), nitrobenzene (U169), pentachloroethane (U184), propanenitrile (P101), 1,1,1,2-tetrachloroethane (U208), 1,1,2,2-tetrachloroethane (U209), tetrahydrofuran (U213), tribromomethane (U225), and trichloromethane (U044), not including the solvents named in the F001 through F005 hazardous waste listings.

hazardous materials designations.¹⁴ 40 C.F.R. 261.23 (2013) (corresponding with 35 Ill. Adm. Code 721.123).

- A toxic waste (any of hazardous waste numbers D004 through D043) is one that shows the presence of one of 40 chemical contaminants and classes of chemical contaminants above specified concentrations when subjected to the Toxicity Characteristic Leaching Procedure (TCLP). 40 C.F.R. 261.24 (2013) (corresponding with 35 Ill. Adm. Code 721.124). Among the TCLP toxic contaminants are 12 that could be used as solvents.¹⁵ See table 1 to 40 C.F.R. 261.24 (2013). Of these, five appear in the F001, F002, and F005 waste listings in the first category of excluded solvent-containing wipes.¹⁶ Compare table 1 to 40 C.F.R. 261.24 (2013) (corresponding with 35 Ill. Adm. Code 721.124(b) table) with table 1 to 40 C.F.R. 261.31(a) (2013) (F001 through F005 hazardous waste listings; corresponding with 35 Ill. Adm. Code 721.131(a)).

The hazardous waste listings indicate the characteristics for which each P- and U-listed hazardous waste was listed. See 40 C.F.R. 261.33(e) and (f) (2013) (corresponding with 35 Ill. Adm. Code 721.133(e) and (f)); see also 40 C.F.R. 261.21(a) and 261.32(a) (2013) (F- and K- hazardous waste listings; corresponding with 35 Ill. Adm. Code 721.121(a) and 721.132(a)). The P- and U-listed hazardous wastes attributed with the characteristics of reactivity and corrosivity are not solvents.¹⁷ See 40 C.F.R. 261.33(e) and (f) (2013) (corresponding with 35 Ill. Adm. Code 721.133(e) and (f)). Thus, it would appear that the only hazardous waste characteristic(s) attributed to the solvents are toxicity and ignitability.¹⁸

¹⁴ The designations are forbidden explosive and Division 1.1, 1.2, and 1.3 explosive. See 49 C.F.R. 173.50 through 173.52 and 173.54 (2012).

¹⁵ These are benzene (hazardous waste number D001), carbon tetrachloride (D019), chlorobenzene (D021), chloroform (D022), 1,2-dichloroethane (D028), 1,1-dichloroethylene (D029), hexachlorobutadiene (D033), hexachloroethane (D034), methyl ethyl ketone (D035), nitrobenzene (D036), pyridine (D038), and tetrachloroethylene (D039).

¹⁶ These are carbon tetrachloride (F001), chlorobenzene (F002), methyl ethyl ketone (F005), pyridine (F005), and tetrachloroethylene (F001, F002).

¹⁷ The corrosive wastes are acetyl chloride (U001), benzenesulfonyl chloride (U020), Benzotrichloride (U023), formic acid (U123), and hydrofluoric acid (U134). The reactive wastes are aluminum phosphide (P006), ammonium picrate (P009), benzotrichloride (U023), carbon oxyfluoride (U033), α,α -dimethylbenzylhydroperoxide (U096), methyl ethyl ketone peroxide (U160), mercury fulminate (P065), nitroglycerine (P081), phosphorus sulfide (U189), selenium sulfide (U205), tetranitromethane (P112), toluene diisocyanate (U223), 1,3,5- trinitrobenzene (U234), and zinc phosphide (P122). See 40 C.F.R. 261.33(e) and (f) (corresponding with 35 Ill. Adm. Code 721.133(e) and (f)).

¹⁸ The hazardous waste characteristics indicated for the solvents listed for example in footnote 17 above are the following: allyl alcohol (toxicity), cyclohexane (ignitability), dibromomethane

Category 3: Wipes That Exhibit the Characteristic of Ignitability from a Non-Listed Solvent. The third category of solvent-containing wipes eligible for the exclusions would appear an extension of the second category, which is limited to listed hazardous waste. In the third category are those solvent-containing wipes that exhibit the characteristic of ignitability due to the presence of solvents that are not listed in 40 C.F.R. 261.¹⁹ 40 C.F.R. 261.10 (2013), as amended at 78 Fed. Reg. at 46484 (§ (1)(iii) of the definition of “solvent-contaminated wipe”; (corresponding with 35 Ill. Adm. Code 720.110).

A limitation on this third category is that solvent-containing wipes that are hazardous because they exhibit a characteristic of toxicity, corrosivity, or reactivity due to the presence of solvent would not be included. This limitation, however, may have no practical effect. As discussed above, it is unlikely that any solvent would contribute the characteristics of corrosivity or reactivity. Further, it is likely that no non-hazardous solvent would contribute the characteristic of toxicity to a solvent-containing wipe.²⁰

Contamination in the Wipes Can Cause the Loss of the Exclusions. As quoted above in the discussion of the first category of excluded solvent-contaminated wipes, contamination by a listed hazardous waste, other than the solvents included in the first and second categories, will cause loss of the exclusions. Contamination by such listed hazardous waste will subject the solvent-containing waste to regulation as hazardous waste. Similarly, contamination of a solvent-contaminated wipe in the third category by any material that causes the wipe to exhibit the characteristics of toxicity, reactivity, or corrosivity will subject the wipe to regulation as hazardous waste.²¹

Conditions Applicable to the Exclusions. Aside from fulfilling the definition of the solvent-containing wipes to which the exclusions from the definitions of solid waste and hazardous waste, USEPA imposed conditions on management of the wipes. Some of the

(toxicity), 1,1-dichloroethylene (toxicity), 1,2-dichloroethylene (toxicity), dichloromethane (toxicity), 2-ethoxyethanol (toxicity), methanol (ignitability), nitrobenzene (ignitability and toxicity), pentachloroethane (toxicity), propanenitrile (toxicity), 1,1,1,2-tetrachloroethane (toxicity), 1,1,2,2-tetrachloroethane (toxicity), tetrahydrofuran (ignitability), tribromomethane (toxicity), and trichloromethane (toxicity).

¹⁹ Such solvents could include ethanol, n-hexane, isopropyl alcohol, turpentine, mineral spirits, naphtha, kerosene, etc.

²⁰ All solvents listed in the TCLP, which is the determinant for the toxicity characteristic, are either included in the first and second categories of excluded solvent-containing wipes. See table 1 to 40 C.F.R. 261.24 (corresponding with 35 Ill. Adm. Code 721.124(b) table), 40 C.F.R. 261.31(a) and 261.33(f) (corresponding with 35 Ill. Adm. Code 721.131(a) and 721.133(f)); and appendix VII to 40 C.F.R. 261 (2013) (corresponding with Appendix G to 35 Ill. Adm. Code 721).

²¹ A contaminant that contributes the characteristic of ignitability would have no effect on exclusion of the wipes.

conditions are common between the two exclusions. Some are unique to each. There is a great similarity between the exclusions that are unique to each exclusion.

Conditions Common Between Both Exclusions. The conditions common between the two exclusions are the following:

- **Condition of Containers:** Storage, accumulation, and transportation of solvent-containing wipes must occur in non-leaking, closed containers that can contain any free liquids that may occur and which are clearly marked “Excluded Solvent-Containing Wipes.” The containers must be capable of containing any free liquids. 40 C.F.R. 261.4(a)(26)(i), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(A)).
- **Closed Containers during accumulation:** The lid must be closed (in complete contact with the rim of the container) at all times, except when necessary to add or remove wipes. *Id.*
- **Sealed Containers after accumulation:** When a container is full, when accumulation is no longer occurring, and when a container is being transported, the container must be sealed, with the lid firmly affixed and all openings closed to prevent leakage or emissions. *Id.*
- **180-Day Limit on Accumulation Time.** The generator may only accumulate solvent-contaminated wipes into any single container for a maximum of 180 days from the date that accumulation into that container began. 40 C.F.R. 261.4(a)(26)(ii) and (b)(18)(ii), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(B) and (b)(18)(B)).
- **Documentation to Demonstrate Compliance with Accumulation Time Limit.** The generator must maintain documentation to demonstrate compliance with the 180-day accumulation time limit. 40 C.F.R. 261.4(a)(26)(v)(B) and (b)(18)(v)(B), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(E)(ii) and (b)(18)(E)(ii)).
- **No Free Liquids in Containers When Moved.** At the time that the solvent-containing wipes are sent for on-site cleaning, transported off-site for cleaning, or transported for disposal, the containers must contain no free liquids. 40 C.F.R. 261.4(a)(26)(iii) and (b)(18)(iii), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(C) and (b)(18)(C)).
- **Removed Free Liquids Subject to Hazardous Waste Management.** Any free liquids removed from the solvent-contaminated wipes or from the container holding the wipes are subject to management as hazardous waste. 40 C.F.R. 261.4(a)(26)(iii) and (b)(18)(iii), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(C) and (b)(18)(C)).
- **Documentation of Receiving Destination.** The generator must maintain documentation of the name and address of the laundry or dry cleaner that receives the

wipes for cleaning or the landfill or combustor that receives the wipes for disposal. 40 C.F.R. 261.4(a)(26)(v)(A) and (b)(18)(v)(A), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(E)(i) and (b)(18)(E)(i)).

Conditions That Apply Only to the Exclusion of Wipes That Are Reused. The conditions that apply only to solvent-contaminated wipes that are sent for cleaning and re-use are as follows:

- **Documentation of Procedure to Avoid Free Liquids.** The generator must document the procedure it is using to ensure that solvent-containing wipes do not include free liquid at the point they are laundered. 40 C.F.R. 261.4(a)(26)(v)(C), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(E)(iii)).
- **Permissible Receiving Laundry or Dry-Cleaner.** Any wastewater discharged by the laundry or dry-cleaner that receives solvent-contaminated wipes must be regulated under sections 301 and 402 or 307 the Clean Water Act (42 U.S.C. §§ 1311 and 1342 or 1317).²² 40 C.F.R. 261.4(a)(26)(vi), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(F)).

Conditions That Apply Only to the Exclusion of Wipes That Are Disposed of. Conditions apply to solvent-contaminated wipes that are sent for disposal, which are excluded from the definition of hazardous waste:

- **No Exclusion for 1,1,1-Trichloroethane.** The exclusion does not apply to solvent-containing wipes that are hazardous due to the presence of 1,1,1-trichloroethane. 40 C.F.R. 261.4(b)(18), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(b)(18)).
- **Documentation of Procedure to Avoid Free Liquids.** The generator must document the procedure it is using to ensure that solvent-containing wipes contain no free liquid at the point of transport for disposal. 40 C.F.R. 261.4(b)(18)(v)(C), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(b)(18)(E)(iii)).
- **Permissible Municipal Solid Waste Landfill Facility.** A municipal solid waste landfill that receives the solvent-containing wipes must be regulated under 40 C.F.R. 258, including 40 C.F.R. 258.40.²³ 40 C.F.R. 261.4(b)(18)(vi)(A), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(b)(18)(F)(i)).

²² *I.e.*, wastewater discharge limitations and NPDES permit requirements or wastewater pretreatment requirements.

²³ The provision pertaining to landfill design criteria.

- Permissible Hazardous Waste Landfill Facility. A hazardous waste landfill that receives the solvent-containing wipes must be regulated under 40 C.F.R. 264 or 265.²⁴ *Id.*
- Permissible Municipal Waste Combustor Facility or Other Combustion Facility. A combustor that receives the solvent-containing wipes must be regulated under section 129 of the Clean Air Act (42 U.S.C. § 7429).²⁵ 40 C.F.R. 261.4(b)(18)(vi)(B), as added at 78 Fed. Reg. at 46484 (corresponding with 35 Ill. Adm. Code 721.104(b)(18)(F)(ii)).
- Permissible Hazardous Waste Combustor Facility. A hazardous waste combustor that receives the solvent-containing wipes must be regulated under 40 C.F.R. 264, 265, or 266.²⁶ *Id.*

Incorporation of the Exclusions of Solvent-Contaminated Wipes into the Illinois Regulations. The Board has incorporated the conditional exclusions of solvent-contaminated wipes from the definitions of solid waste and hazardous waste into the Illinois regulations without substantive review of the federal exclusions. The foregoing discussions are intended to aid understanding of the federal action that the Board now incorporates into the Illinois rules. Persons wishing to explore the substance of the USEPA corrections and clarifications should refer to the appropriate *Federal Register* notices. The Board’s purpose here is to ensure that the Illinois regulations are identical-in-substance to their federal counterparts.

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

Specification of Another Test Method. The definition of “no free liquids” requires determination of the presence of free liquids using a specified paint filter liquids test.²⁷ The federal definition further allows use of “another standard or test method as defined by an

²⁴ The standards for permitted or interim status hazardous waste treatment, storage, or disposal facilities.

²⁵ The standards for permitted or interim status hazardous waste treatment, storage, or disposal facility standards or specific hazardous wastes and specific types of hazardous waste facilities.

²⁶ The standards for permitted or interim status hazardous waste treatment, storage, or disposal facility standards or specific hazardous wastes and specific types of hazardous waste facilities.

²⁷ Method 9095B (“Paint Filter Liquids Test”), rev. 2, in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Update IIIB (November 2004).

authorized state.” 40 C.F.R. 10 (2013) (definition of “no free liquids”) (corresponding with 35 Ill. Adm. Code 720.110).

The Board cannot use such indefinite and open-ended language. The Board must either delete this language relative to an alternative method or use alternative language that provides for a formalized determination that allows the use of an alternative method. The Board has opted to use the language that places the decision in the hands of the Illinois Environmental Protection Agency (Agency). The mechanism chosen to provide for an Agency determination is the issuance of a permit condition. The threshold for Agency determination is that the alternative test method “is equivalent to Method 9095B.”

Regulations Applicable to Destination Facilities. One set of conditions that applies to both of the conditional exclusions specifies the acceptable destinations for solvent-containing wipes. The conditions for a laundry facility receiving wipes that are to be reused are distinct from those for a disposal facility.

Conditions re: a Laundry Facility. The conditional exclusion applicable to solvent-contaminated wipes that are to be reused requires that the destination laundry facility must be regulated under specified provisions of the Clean Water Act. The provisions cited in 40 C.F.R. 261.4(a)(26)(vi) are those that pertain to national discharge limitations and NPDES permitting²⁸ and to wastewater pretreatment.²⁹ 40 C.F.R. 261.4(a)(26)(vi) (2013) , as added at 78 Fed. Reg. 46484 (corresponding with 35 Ill. Adm. Code 720.104(a)(26)(F)). Thus, direct discharges (subject to effluent limitations and NPDES permitting) and indirect discharges into the collection system of a publicly operated treatment works (subject to wastewater pretreatment standards) from these laundry facilities must be regulated.

The Board has retained the citations to the federal Clean Water Act provisions. Since all effluent limitations, NPDES permit conditions, and wastewater pretreatment standards in Illinois must, at a minimum, fulfill the federal standards, the Board did not add citations to Illinois statutory or regulatory provisions. Instead, the Board added “or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1446 and 1370.”

Conditions re: a Disposal Facility. The conditional exclusion applicable to solvent-contaminated wipes that are to be disposed of is divided into two modes of disposal: disposal in a landfill and disposal by combustion. Wipes that are landfill-disposed must go to a municipal solid waste landfill or a hazardous waste landfill facility that is regulated under specified regulations.³⁰ 40 C.F.R. 261.4(b)(18)(vi)(A) (2013), as added at 78 Fed. Reg. 46484 (corresponding with 35 Ill. Adm. Code 720.104(b)(18)(F)(i) and (b)(18)(F)(ii)). Wipes that are disposed of by combustion must go to a municipal solid waste combustor or another combustion

²⁸ These are sections 301 and 402 of the Clean Water Act (33 U.S.C. §§ 1311 and 1341).

²⁹ This is Clean Water Act section 307 (33 U.S.C. § 1317).

³⁰ These are 40 C.F.R. 258, with specific citation to the landfill design criteria of 40 C.F.R. 258.40, for a municipal solid waste landfill, and 40 C.F.R. 264 and 265, for a hazardous waste landfill.

facility that is regulated under specified regulations.³¹ 40 C.F.R. 261.4(b)(18)(vi) (2013), as added at 78 Fed. Reg. 46484 (corresponding with 35 Ill. Adm. Code 720.104(b)(18)(F)(iii) and (b)(18)(F)(iv)).

USEPA divided the destination facility requirement into two subsections by mode of disposal: one relating to landfill disposal and the other relating to disposal by combustion. The Board has further sub-divided each mode of disposal into two subsections. The Board divided the landfill provision between disposal in a non-hazardous municipal solid waste landfill and a hazardous waste landfill.³² Similarly, the Board divided the disposal by combustion provision into disposal in a municipal solid waste or other Clean Air Act-regulated combustor and a hazardous waste combustor regulated under one of the hazardous waste rules.³³ There are three possible bodies of hazardous waste regulations: (1) the permitted treatment, storage, and disposal facility standards (40 C.F.R. 264 (corresponding with 35 Ill. Adm. Code 724)); (2) the interim status treatment, storage, and disposal facility standards (40 C.F.R. 265 (corresponding with 35 Ill. Adm. Code 725)); and (3) the hazardous waste boiler and industrial furnace standards (subpart H of 40 C.F.R. 266 (corresponding with Subpart H 35 Ill. Adm. Code 726)).

The Board has retained references to the federal Clean Air Act provision in subsection (b)(18)(F)(iii), relating to wipes disposed of in a municipal solid waste combustor or other Clean Air Act-regulated facility. The Board added “or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429” to the subsection relating to disposal in a non-hazardous municipal solid waste combustor.

The Board retained the federal regulatory provisions and added the corresponding Illinois regulatory provisions in the other three subsections (b)(18)(F)(i), (b)(18)(F)(ii), and (b)(18)(F)(iv). The Board added the statement, “or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 42 USC 6943 and 6947,” to subsection (b)(18)(F)(i) relating to wipes disposed of in a non-hazardous municipal solid waste landfill. To subsections (b)(18)(F)(ii) and (b)(18)(F)(iv), relating to wipes disposed of in hazardous waste disposal facilities (by landfill or combustion), the Board added “or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.”

No Incorporations by Reference. The Board has not incorporated by reference to the federal provisions cited in 40 C.F.R. 261.4(a)(26)(vi) or (b)(18)(vi) (corresponding with 35 Ill. Adm. Code 721.104(a)(26)(vi) and (b)(18)(F)). This subsection does not directly impose any requirements of the cited federal statutory and regulatory provisions on the management of the

³¹ These are section 129 of the Clean Air Act (42 U.S.C. § 7429) for a municipal solid waste combustor or other combustion facility or 40 C.F.R. 264 or 265 or subpart H of 40 C.F.R. 266 for a hazardous waste combustor, boiler, or industrial furnace.

³² Subsections (b)(18)(F)(i) and (b)(18)(F)(ii), which correspond with 40 C.F.R. 261.4(b)(18)(vi)(A).

³³ Subsections (b)(18)(F)(iii) and (b)(18)(F)(iv), which correspond with 40 C.F.R. 261.4(b)(18)(vi)(B).

excluded solvent-containing wipes. Rather, this subsection conditions the exclusions from the definitions of solid waste and hazardous waste on the regulatory status of the destination facility.

Requests for Comments. The Board generally requests comments on the July 31, 2013 conditional exclusions of solvent-containing wipes from the definitions of solid waste and hazardous waste. The Board further requests comments on specific aspects of the exclusion:

1. Are there any F- and K-listed hazardous waste solvents that would cause a wipe to fall within the second category of solvent-contaminated wipes—wipes that exhibit a characteristic of hazardous waste due to the presence of a solvent listed in 40 C.F.R. 261 (corresponding with 35 Ill. Adm. Code 721)—and which would not also bar the wipes from exclusion by contributing another characteristic of hazardous waste?
2. What solvents not listed in 40 C.F.R. 261 (corresponding with 35 Ill. Adm. Code 721) would cause a wipe to fall within the third category of solvent-contaminated wipes—wipes that exhibit the hazardous waste characteristic of ignitability due to the presence of a solvent not listed in 40 C.F.R. 261 and no other characteristic?
3. Is it true that a solvent-contaminated wipe that is used to clean equipment or clean up a spill would be barred from exclusion if during use it becomes contaminated with a material that either is listed hazardous waste or imparts a hazardous characteristic that is not inherent to the solvent in the wipe?
4. Is there a distinction between a solvent-contaminated wipe that gained the presence of listed hazardous waste or which acquired a characteristic of hazardous waste through use and a wipe that acquired the presence of listed hazardous waste or which acquired a characteristic of hazardous waste before or after use?
5. Does the presence of contaminants that are listed hazardous waste or which imparts a characteristic of hazardous waste have a different effect on the exclusion of solvent-contaminated wipes in the first category—containing the F001 through F005 spent solvents—and the exclusion of wipes in the second or third category?

Conditional Exclusion of Carbon Dioxide Streams Injected into Carbon Sequestration Wells from Regulation as Hazardous Waste—Sections 720.110, 720.111, and 721.104

On January 3, 2014 (at 79 Fed. Reg. 350), USEPA conditionally excluded from regulation as hazardous waste carbon dioxide streams that are injected into Class VI injection wells for the purpose of carbon sequestration. USEPA added the new Class VI carbon sequestration wells to the underground injection control (UIC) regulations in 2010. *See* 75 Fed. Reg. 77230 (Dec. 10, 2010). In 2011, USEPA subsequently proposed conditional exclusion of carbon dioxide streams from regulation as hazardous waste to facilitate development of carbon sequestration projects. *See* 76 Fed. Reg. 48073 (Aug. 8, 2011).

What is Covered by the Exclusion: Definition of “Carbon Dioxide Stream.” The USEPA amendments add a definition of “carbon dioxide stream” to the regulations. The definition reads as follows:

Carbon dioxide stream means carbon dioxide that has been captured from an emission source (e.g., [a] power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process. 40 C.F.R. 260.10 (2013) (definition of “carbon dioxide stream”), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 720.110).

This definition is nearly identical to the definition of the term in the Class VI carbon sequestration well standards in the UIC regulations. The significant difference is that the UIC regulations exclude carbon dioxide streams that meet the definition of hazardous waste.³⁴ *See* 76 Fed. Reg. at 48088; *compare* 40 C.F.R. 260.10 (2013), as amended at 79 Fed. Reg. at 364 (definition of “carbon dioxide stream”) (corresponding with 35 Ill. Adm. Code 720.110) *with* 40 C.F.R. 146.81(d) (2013) (definition of “carbon dioxide stream”; corresponding with 35 Ill. Adm. Code 730.181(d)).

USEPA does not describe “incidental associated substances derived from the source materials and the capture process.” USEPA stated that it “does not have full knowledge of the range of possible [carbon dioxide] stream compositions.” 76 Fed. Reg. at 48088. USEPA does not know that a carbon dioxide stream will be hazardous. *Id.* at 48078-79. USEPA used flue gas composition studies to speculate as to some possible contaminants. *Id.* at 48079. These included arsenic, barium, cadmium, chromium, mercury, lead, and selenium, each of which USEPA observed are relevant to determination of the toxicity characteristic.³⁵ *Id.*; *see* table 1 to 40 C.F.R. 261.24 (2013) (TCLP contaminants) (corresponding with 35 Ill. Adm. Code 721.124(b) table). In its proposal for public comment, USEPA requested analytical data on the physical and chemical composition of captured carbon dioxide streams, but the discussion of the adopted exclusion does not indicate that USEPA received any such information. *See* 79 Fed. Reg. at 359; 76 Fed. Reg. at 48079. USEPA did observe, however, that any contaminant “present at sufficient volume” will negate the exclusion. 79 Fed. Reg. at 359.

USEPA has further offered no description of the composition of substances added to the carbon dioxide stream to enable or improve the injection process. USEPA observed that such substances could include viscosity reducers or inhibitors for reactions with brine or formation rock. The only comment that USEPA received in this regard was from an entity that used no additives for injection. *See* 79 Fed. Reg. at 379. One condition imposed on the exclusion prohibits mixing hazardous waste with the carbon dioxide stream for injection. *See* 40 C.F.R. 261.4(h)(3), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 721.104(h)(3))

³⁴ The Board observes that the new conditional exemption for carbon dioxide injected into Class VI carbon sequestration wells is from regulation as hazardous waste, not from the definition of “hazardous waste.” *Compare* 40 C.F.R. 261.4(h), as added at 79 Fed. Reg. at 364 *with* 40 C.F.R. 261.4(b) (2013) (corresponding with 35 Ill. Adm. Code 721.104(h)).

³⁵ USEPA further named sulfur dioxide, hydrogen sulfide, nitrogen oxides, carbon monoxide, methane, and water vapor as contaminants that could act as chemical characteristics of a carbon dioxide stream. *Id.*

Conditions that Apply to the Exclusion. There are four basic conditions that apply to a carbon dioxide stream injected into a Class VI carbon sequestration well. These conditions relate to (1) transportation of the carbon dioxide stream to the wellhead; (2) compliance with the Class VI well standards of the UIC requirements; (3) the carbon dioxide stream must not have been mixed with hazardous waste; and (4) the execution of certifications of compliance by the generator of the carbon dioxide stream and the owner or operator of the Class VI well injecting the stream.

Transportation. Transportation of the carbon dioxide stream must comply with “U.S. Department of Transportation requirements, including pipeline safety laws and regulations.” 40 C.F.R. 261.4(h)(1), as added at 79 Fed. Reg. at 364. Specifically cited in this condition are statutory pipeline safety provisions (49 U.S.C. § 60101 *et seq.*), USDOT pipeline safety regulations (49 C.F.R. 190 through 195, 198, and 199),³⁶ and pipeline safety regulations administered by a state and authorized by USDOT.³⁷ *See Id.*

Injection into a Class VI Carbon Sequestration Well. The conditional exclusion applies only to carbon dioxide streams that are underground injected for the purpose of geologic sequestration. That injection must occur into a well that is subject to the UIC requirements for Class VI injection wells. 40 C.F.R. 261.4(h), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 721.104(h)). Class VI injection wells are those that are used for geological sequestration of carbon dioxide. *See* 40 C.F.R. 146.5(f) (2013) (corresponding with 35 Ill. Adm. Code 730.105(f)). This may include injection into Class I,³⁸ Class II,³⁹ or Class V⁴⁰ that are authorized for carbon sequestration. The Class VI well standards apply to those non-Class VI wells. *See* 40 C.F.R. 146.81(c) (2013) (corresponding with 35 Ill. Adm. Code 730.181(c)). USEPA, however, stated as follows:

[T]his conditional exclusion is not intended to affect the regulatory status of [carbon dioxide] streams that are injected into wells other than UIC Class VI

³⁶ USEPA cites this as 49 C.F.R. 190 through 199. *See* 40 C.F.R. 261.4(h)(1), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 721.104(h)(1)). Two parts, 49 C.F.R. 196 and 197 are marked “reserved.” *See* 49 C.F.R. subtitle B, chapter II, subchapter D table of contents (2013). *See* the discussion of incorporation by reference to the USDOT regulations below.

³⁷ Federal law provides that USDOT regulations do not apply to a state-regulated pipeline or transportation in a state that has certified compliance of facilities and transportation within the state by a prescribed procedure. *See* 49 U.S.C. § 60105 (2011).

³⁸ Hazardous waste, radioactive waste, industrial, and municipal disposal wells. *See* 40 C.F.R. 146.5(a) (2013) (corresponding with 35 Ill. Adm. Code 730.105(a)).

³⁹ Enhanced oil and gas recovery wells. *See* 40 C.F.R. 146.5(b) (2013) (corresponding with 35 Ill. Adm. Code 730.105(b)).

⁴⁰ Experimental technologies wells. *See* 40 C.F.R. 146.5(e)(15) (2013) (corresponding with 35 Ill. Adm. Code 730.105(e)(15)).

wells. [US]EPA reiterates that these issues are beyond the scope of this final rule, and [US]EPA did not develop information for inclusion in the proposal on well classes other than UIC Class VI wells. However, in the interest of public transparency and in light of the several public comments on this issue, [US]EPA does note that (based on the limited information provided in the public comments) should [carbon dioxide] be used for its intended purpose as it is injected into UIC Class II wells for the purpose of EOR/EGR, it is [US]EPA's expectation that such an injection process would not generally be a waste management activity. *See* 79 Fed. Reg. at 355.

Thus, the exclusion is unclear as to applicability to a carbon dioxide stream injected into a Class I, Class II, or Class V well.

No Mixtures with Hazardous Waste. The exclusion states: "No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream." 40 C.F.R. 261.4(h)(4), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 721.104(h)(4)). Injection of such a mixture would need to occur into a Class I hazardous waste injection well. *See* 79 Fed. Reg. at 353. USEPA intends that hazardous waste injection occur only at Class I hazardous waste injection wells. *Id.* at 356.

Generator and Well Owner or Operator Certifications. The final condition requires the carbon dioxide stream generator and the Class VI injection well owner or operator to execute and retain copies on-site of specified certification statements. The generator statement certifies that the carbon dioxide stream was not mixed with hazardous waste and that transportation of the stream occurred in compliance with applicable USDOT requirements, including federal and state pipeline safety laws and regulations, for underground injection in compliance with Class VI well standards. 40 C.F.R. 261.4(h)(4)(i), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 721.104(h)(4)(A)). The well owner or operator statement certifies that the carbon dioxide stream was not mixed with or co-injected with hazardous waste and that injection of the carbon dioxide stream occurred in compliance with the requirements applicable to Class VI injection wells. 40 C.F.R. 261.4(h)(4)(ii), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 721.104(h)(4)(B)). The generator and well owner or operator must renew the certification statements at least annually by executing a new certification statement. The generator and well owner or operator must retain these certification statements on-site, and they must produce them within 72 hours of a written request from USEPA or the State. If the generator or well owner or operator has a website, the certification statements must be accessible on-line under the title "Carbon Dioxide Stream Certification." 40 C.F.R. 261.4(h)(4)(iii), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 721.104(h)(4)(C)).

Incorporation of the Exclusion of Carbon Dioxide Streams into the Illinois Regulations. The Board has incorporated the conditional exclusion from regulation as hazardous waste of carbon dioxide streams injected into Class VI injections wells for geological sequestration. The foregoing discussions are intended to aid understanding of the federal action that the Board now incorporates into the Illinois rules. Persons wishing to explore the substance of the USEPA corrections and clarifications should refer to the appropriate *Federal Register* notices. The Board's purpose here is to ensure that the Illinois regulations are identical-in-substance to their federal counterparts.

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

Definition of “Carbon Dioxide Stream.” The Board made only one revision to the definition of “carbon dioxide stream.” The Board added the indefinite article “a” before “power plant” in the parenthetical example of an emission source. This addition makes the language of this definition mirror that of the definition of the term in the UIC regulations, except for the statement in the UIC definition relative to carbon dioxide streams that meet the definition of “hazardous waste.” See 40 C.F.R. 260.10 (definition of “carbon dioxide stream”), as added at 79 Fed. Reg. at 364 (corresponding with 35 Ill. Adm. Code 720.110); compare 40 C.F.R. 260.10, as amended at 79 Fed. Reg. at 364 (definition of “carbon dioxide stream”) (corresponding with 35 Ill. Adm. Code 720.110) with 40 C.F.R. 146.81(d) (2013) (corresponding with 35 Ill. Adm. Code 730.181(d)).

Reliance on Federal Pipeline Requirements. The federal rule requires compliance with USDOT transportation requirements, but the specific citations to federal statutory and regulatory requirements exclusively relate to transport by pipeline. Further, the citations to USDOT pipeline transport requirements are too broad.

USDOT Transportation Requirements. In discussion of the proposed rule, USEPA observed that transportation of carbon dioxide streams to the injection site usually occurs as a supercritical liquid by a dedicated pipeline. USEPA further stated that surface transportation by air, rail, highway, and water would be governed by other USDOT regulations.⁴¹ 76 Fed. Reg. at 48076. In the proposed rule, this condition required “compliance with applicable Department of Transportation requirements.” 40 C.F.R. 261.4(h)(1), as proposed at 76 Fed. Reg. 48093.

On final adoption, USEPA added the federal statutory and regulatory citations relating to pipeline safety standards, including a reference to federally authorized, state-regulated pipeline facilities:

Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (49 U.S.C. 60101 et seq.) and regulations (49 CFR Parts 190–199) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable. 40 C.F.R. 261.4(h)(1), as added at 79 Fed. Reg. 364; 79 Fed. Reg. at 354 (emphasis added to added language; corresponding with 35 Ill. Adm. Code 721.104(h)(1)).

⁴¹ These are 49 C.F.R. 171 through 180 (2013).

USEPA added no similar citations or references to surface transportation by air, rail, highway, and water. *See Id.*

The Board does not believe that the addition of the language relative to pipeline transport excluded the possible use of transportation by other means that comply with USDOT requirements. USEPA intended to clarify that transportation in a state-regulated pipeline was permissible under the exclusion. *See* 79 Fed. Reg. at 354. This did not change USEPA’s intent that transportation must occur in compliance with USDOT requirements for transportation by air, water, highway, or rail. *See* 76 Fed. Reg. 48076.

In fact, for the reasons described below with regard to incorporation of the pipeline transport requirements, the Board has added references to each of 49 C.F.R. 171 through 180 and incorporated them by reference.

Pipeline Transportation Requirements. In discussion of the proposed exclusion, USEPA focused on 40 C.F.R. 190 and 195-199 as the body of USDOT regulations that apply to pipeline transportation. *See Id.* USEPA specifically stated that pipeline transportation of a supercritical carbon dioxide stream would be governed by 40 C.F.R. 195, which includes a definition of “carbon dioxide” and which expressly applies to pipeline transport of carbon dioxide. *See* 49 C.F.R. 195.1(a)(9) and 195.2 (2013).

Upon final adoption, USEPA stated that it had conferred with USDOT to confirm that 49 C.F.R. is the core of the USEPA regulations relating to pipeline transportation of carbon dioxide streams. 79 Fed. Reg. at 354. USEPA went on to observe that some states regulated pipelines under authorization of USDOT. *Id.* For this reason, USEPA added citations to federal statutory and regulatory pipeline transport requirements and a general reference to USDOT-authorized state regulations. *Id.* In the regulation, USEPA cited to 49 U.S.C. §§ 60601 *et seq.*, state programs authorized pursuant to 49 U.S.C. § 60605, and USDOT regulations in 49 C.F.R. 190 through 199. 40 C.F.R. 261.4(h)(1), as added at 79 Fed. Reg. 364 (corresponding with 35 Ill. Adm. Code 721.104(h)(1)).

The Board sees problems with the USEPA statutory and regulatory citations to federal pipeline transport requirements. Initially, the Board believes that citation to chapter 601 of subtitle VIII of 49 C.F.R. (49 U.S.C. §§ 60101-60140) is a more precise citation than is 49 U.S.C. §§ 60601 *et seq.* The Board proposes this change to USEPA’s language in this regard. Second, the citation to 49 C.F.R. 190-199 is overbroad. In part, this is because 49 C.F.R. 196 and 197 are marked “reserved” and do not exist. *See* 49 C.F.R. subtitle B, chapter II, subchapter D table of contents (2013). The Board has proposed this citation to the USDOT pipeline regulations omitting parts 196 and 197.

The citation to USDOT pipeline regulations may further be overbroad in that it embraces requirements that might not apply to pipeline transport of carbon dioxide streams. The cited USDOT regulations are titled as follows:

49 C.F.R. 190	Pipeline Safety Programs and Rulemaking Procedures
49 C.F.R. 191	Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related condition Reports

49 C.F.R. 192	Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards
49 C.F.R. 193	Liquefied Natural Gas Facilities: Federal Safety Standards
49 C.F.R. 194	Response Plans for Onshore Oil Pipelines
49 C.F.R. 195	Transportation of Hazardous Liquids by Pipeline
49 C.F.R. 198	Regulations for Grants to Aid State Pipeline Safety Programs
49 C.F.R. 199	Drug and Alcohol Testing

Of these USDOT regulations, some would not impose standards on the operation of a pipeline used to transport carbon dioxide streams. These would include 49 C.F.R. 190, which prescribes Pipeline and Hazardous Materials Safety Administration rulemaking procedures (*see* 49 C.F.R. 190.1 (2013) (purpose and scope); 49 C.F.R. 193, which applies exclusively to liquefied natural gas (*see* 49 C.F.R. 193.2005 and 193.2007 (2013) (applicability; definitions of “gas” and “liquefied natural gas”)); 49 C.F.R. 194, which applies exclusively to oil pipelines (*see* 49 C.F.R. 194.3 and 194.5 (applicability; definitions of “oil” and “onshore oil pipeline facilities”)); and 49 C.F.R. 198, which relates only to grants-in-aid to state pipeline safety programs (*see* 49 C.F.R. 198.1 (2013) (scope)).

Each of the remaining USDOT regulations may impose standards on pipelines used to transport carbon dioxide streams. The standards of 49 C.F.R. 195 expressly apply to pipeline transport of carbon dioxide. *See* 49 C.F.R. 195.1(a) (2013). The standards of 49 C.F.R. 199 also expressly apply. *See* 49 C.F.R. 199.1 and 199.2(a) (2013). The standards of 49 C.F.R. 191 apply to “gas pipeline facilities” (49 C.F.R. 191.1(a) (2013)), but “gas” is defined as “natural gas, flammable gas, or gas which is toxic or corrosive.” 49 C.F.R. 191.3 (2013). This is likely broad enough to include a carbon dioxide stream. On the other hand, the standards of 49 C.F.R. 195 include specific reporting requirements that may conflict with those of 49 C.F.R. 191. *See* subpart B of 49 C.F.R. 195 (2013). The situation is similar for the standards of 49 C.F.R. 192, which define “gas” in the same way. *See* 49 C.F.R. 192.3 (2013).

Based on the foregoing, the citations to non-existing 49 C.F.R. 196 and 197 are not appropriate. Citation to the standards of 49 C.F.R. 190, 193, 194, and 198 do not appear needed. Citation to the standards of 49 C.F.R. 195 and 199 is necessary. Citation to 49 C.F.R. 191 and 192 may or may not be required.

The Board has chosen to cite to the pipeline transport standards of 49 C.F.R. 190 through 195, 198, and 199 in the proposal. The Board does so believing that citation to the standards of 49 C.F.R. 191, 192, 195, and 199 or only 49 C.F.R. 195 and 199 may be all that is necessary.

Incorporation of Transportation Requirements by Reference. The remaining issue with regard to the citations to federal transportation laws and regulations is whether incorporation by reference to these standards is necessary. Incorporation by reference is needed when the standards of the cited reference are being imposed by the rule. In the required generator statement, the generator must certify as follows:

I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) U.S. Department of Transportation requirements

35 Ill. Adm. Code 721.104(h)(4)(A) (derived from 40 C.F.R. 261.4(h)(4)(i), as added at 79 Fed. Reg. 364).

Because the generator is directly responsible for compliance with the USDOT requirements, the Board has added incorporation by reference to the USDOT air, water, highway, and rail transportation requirements of 49 C.F.R. 171 through 180 and the pipeline transport requirements of 49 C.F.R. 191 through 195, 198, and 199. The Board has further added incorporation by reference to the federal statutory pipeline transport requirements of chapter 601 or subtitle VIII of 49 U.S.C. and 49 U.S.C. 60105.

Requests for Comments. The Board generally requests comments on the conditional exclusion of carbon dioxide streams from regulation as hazardous waste where the streams are injected for geological sequestration in a well that is regulated as a Class VI. The Board further requests comments on specific aspects of the exclusion:

1. Are there any generators of carbon dioxide streams in Illinois that send the streams for geologic sequestration? If so, where are they located?
2. Are there any Class VI carbon sequestration wells in Illinois that presently accept carbon dioxide streams for injection? If so, where are they located?
3. Are there any Class I hazardous waste or industrial waste injection wells, Class II enhanced oil or gas recovery wells, or Class V experimental injection wells in Illinois that presently accept carbon dioxide streams for injection? If so, where are they located?
4. Are any carbon dioxide streams transported to a regulated well for injection from, through, or into Illinois by pipeline? If so, where are they located?
5. Are any carbon dioxide streams transported to a regulated well for injection from, through, or into Illinois by a means other than pipeline? If so, where are they located?
6. Does any agency of the State of Illinois administer pipeline safety regulations as authorized by USDOT? If so, what is that State agency and what are the statutory and regulatory provisions that they administer?
7. Is there a common statutory name for the federal pipeline safety laws of chapter 601 of subtitle VIII of 49 C.F.R.?
8. Has the Board appropriately added the citations to USDOT transportation regulations in 49 C.F.R. 171 through 180?
9. Should the Board restrict the citations to USDOT pipeline regulations to 49 C.F.R. 191, 192, 195, and 199 or to 49 C.F.R. 195 and 199?
10. Should the Board retain the incorporations by reference to the various federal pipeline safety laws and regulations?

Discussion of Board-Initiated Corrections and Updates

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

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

The Board is including a limited number of corrections and clarifications in this docket. The Board has cataloged a small number of necessary corrections and clarifications since the last RCRA Subtitle C update docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 2012 through December 31, 2012), R13-15 (Sept. 5, 2013).

The Board has made a limited number of changes in the text of various rules that are not directly based on USEPA actions during July 1, 2013 through December 31, 2013 and January 3, 2014. The following segments of discussion consider the amendments added by the Board. The Board will not discuss most of the particular corrective amendments in detail. All corrections are itemized in Table 3, which appears at the end of the opinion segment of this opinion and order. The following segments briefly discuss what the Board believes are the more salient of the corrections. There is no discussion of the rest of the corrections that appear in Table 3.

The Board observes that amendments to 35 Ill. Adm. Code 720 are also pending in UIC Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-1, RCRA Subtitle D Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-2, and RCRA Subtitle C Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-3 (Dec. 5, 2013) (consolidated proposal for public comment). The Board is adopting those amendments today. The Board will finalize them in the coming weeks, during the pendency of the present amendments. The Board included the amendments proposed in the consolidated R14-1/R14-2/R14-3 proceeding in the present amendments. Those amendments appear highlighted in the order segment of this opinion and order. Those amendments will be reflected in the adopted text of the present amendments when they are completed. Table 2, appended at the end of the opinion segment of this opinion and order, itemizes the previously proposed amendments that are also included in this proceeding.

The Board requests that the Agency, JCAR, USEPA and the regulated community review the table and the text of the corrections and comment as necessary. The Board also requests

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

Removal of Past Effective Date from the Exclusion of Leachate or Gas Condensate from Landfills—Section 721.104. The exclusion from the definition of hazardous waste for leachate or gas condensate from landfills has included an effective date that is now past. The first sentence of 35 Ill. Adm. Code 721.104(b)(15)(B) states: “Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, or K178 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge.” The second sentence states: “After February 26, 2007, leachate or gas condensate derived from K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge.” Elimination of the past effective date has resulted in adding K181 waste in the first sentence and removal of the second sentence.

Corrected Numbering of the Exclusion from the Definition of Hazardous Waste—Section 721.104. The addition of the exclusion of solvent-contaminated wipes from the definition of hazardous waste at 40 C.F.R. 261.4(b)(18) has made the absence of 35 Ill. Adm. Code 721.104(b)(16) and (b)(17) problematic. The non-existence of these two subsections could result in a structural difference between the Illinois hazardous waste regulations and their federal counterparts.

USEPA adopted an exclusion at 40 C.F.R. 261.4(b)(16) for waste generated by a specific facility outside Illinois in 2000. *See* 65 Fed. Reg. 54955, 54965 (Sept. 12, 2000). USEPA adopted another exclusion at 40 C.F.R. 261.4(b)(17) specific to a waste generated by a different facility outside Illinois in 2005. *See* 70 Fed. Reg. 36850, 36857 (June 27, 2005). The Board adopted neither of these exclusions. *See* 415 ILCS 5/7.2(a)(1) (2012) (prohibiting adoption of USEPA rules that do not apply to persons or facilities in Illinois). USEPA removed 40 C.F.R. 261.4(b)(16) and marked it “reserved” in 2008 *See* 73 Fed. Reg. 35944, 35946 (June 25, 2008).

The Board has added explanatory statements at 35 Ill. Adm. Code 721.104(b)(16) and (b)(17). The statements will allow adding the federal conditional exclusion at 40 C.F.R. 261.4(b)(18) for solvent-contaminated wipes that are disposed of as 35 Ill. Adm. Code 721.104(b)(18).

Updated Code of Federal Regulations and United States Code Citations and Incorporations by Reference. The Board is using this opportunity to update the *Code of Federal Regulations* and *United States Code* citations throughout the text of the rules. This principally includes updating the version of rules incorporated by reference in 35 Ill. Adm. Code 720.111. Those incorporations by reference include regulations of the Nuclear Regulatory Commission, the U.S. Coast Guard (under delegation by the Department of Homeland Security), USEPA, and the USDOT have amended various of their regulations that the Board has incorporated by reference in 35 Ill. Adm. Code 720.111(b) for use throughout various segments of the hazardous waste and underground injection control (UIC) regulations.

The amendments also pending in UIC Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-1, RCRA Subtitle D Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-2, and RCRA Subtitle C Update, USEPA Amendments (January 1, 2013 through June 30, 2013), R14-3 (Dec, 5, 2013) (consolidated proposal for public comment) will make many updates to the citations to Titles 10, 33, and 40 of the *Code of Federal Regulations* to the 2013 edition in 35 Ill. Adm. Code 720.111(b).⁴² This proceeding further proposes updating the version of *Code of Federal Regulations* to the 2013 version and adding *Federal Register* citations for later amendments.

The Board does not evaluate the impact of individual federal amendments on implementation of the hazardous waste regulations in Illinois. Instead, the Board routinely updates the version of the incorporated *Code of Federal Regulations* provision to the most recent version available for each. This includes inclusion of *Federal Register* citations to the latest version of the *Code of Federal Regulations*, as needed to ensure that all incorporations are as current as possible.

Requests for Public Comments on the Board-Initiated Corrections and Clarifications Included in this Docket and Ancillary Issues Relating to Appendix IX to Part 721. The Board requests comments on the various corrective amendments added to this docket. Specifically, the Board requests comments on the following: (1) the removal of the past effective date and combining of K181 waste with all other wastes listed in the exclusion at 35 Ill. Adm. Code 721.104(b)(15)(B); (2) the addition of explanatory statements at 35 Ill. Adm. Code 721.104(b)(16) and (b)(17) to maintain structural parity with the corresponding federal exclusions from the definition of hazardous waste; and (3) the updated references to the *Code of Federal Regulations*.

Historical Summaries of the RCRA Subtitle C and UIC Regulations

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

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

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

⁴² That is with the exception of the incorporation of the 2000 edition of subpart EEE of 40 C.F.R. 63 incorporated by reference for the purposes of 35 Ill. Adm. Code 703.280.

Deviation arises through differences between the federal and state regulatory structure and systems. In Illinois, the responsibilities are divided among several entities—principally between the Board and the Agency.⁴³ *See* 415 ILCS 5/4 and 5 (2012). The scope of the particular identical-in-substance mandate may not embrace all aspects of the USEPA action involved in a particular proceeding. Further, the Illinois environmental regulations are organized differently than are the more extensive rules of USEPA, sometimes requiring the Board to adapt many of the federal requirements into segments of the Illinois rules. Finally, the Board must comply with the Illinois Administrative Procedure Act (5 ILCS 100 (2012)) and codification requirements of the Office of the Secretary of State (1 Ill. Adm. Code 100) when incorporating the federal requirements.

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

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

The following discussion segments explain in broad terms some of the changes to the literal text of federal rules that the Board makes on a more routine basis. What follows are

⁴³ Many other State agencies have some role to play in many functions under the Environmental Protection Act: the Department of Commerce and Community Affairs (*see* 415 ILCS 5/22, 22.23, 22.34, 25, 27, 55, 55.2, 55.6, 55.7, 55.14, 55.14a, and 55.15 (2012)), the Department of Natural Resources (*see* 415 ILCS 5/17.1-17.3, 27, and 55.6 (2012)), the Department of Agriculture (*see* 415 ILCS 5/14.3, 14.6, 22.2, 22.34, 22.35, 39.4, and 55.6 (2012)), the Illinois Department of Transportation (*see* 415 ILCS 5/3.135, 22.51, 39, and 39.2 (2012)), the Office of the State Fire Marshall (*see* 415 ILCS 5/22.12, 57.3-57.6, 57.9, and 57.11 (2012)), the Illinois Emergency Management Agency (*see* 415 ILCS 5/13.6, 25a-1, 25b, and 57.5 (2012)), the Department of Public Health (*see* 415 ILCS 5/13.2, 22.55, 25d-6, 55.2, and 55.6 (2012)), and the Department of Labor (*see* 415 ILCS 5/52 (2012)). Although the Board must remain mindful of the roles of every State agency in a particular subject matter area, the major divisions of authority of concern in identical-in-substance proceedings are those between the Board and the Agency.

general consideration of deviation from the literal text of federal rules that are prompted by three sources: (1) the divisions of authority between the Board and Agency under the Act; (2) routine updating of incorporations by reference of and citations to the *Code of Federal Regulations*; and (3) stylistic changes, clarifications, and corrections routinely made.

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

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

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

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

1. Whether the entity making the decision is applying a Board regulation, or taking action contrary to, *i.e.*, “waiving,” a Board regulation. It generally takes some form of Board action to “waive” a Board regulation.
2. Whether there is a clear standard for action such that the Board can give meaningful review to an Agency decision.
3. Whether the action would result in exemption from the permit requirement itself. If so, Board action is generally required.
4. Whether the decision amounts to “determining, defining or implementing environmental control standards” within the meaning of Section 5(b) of the Act. If so, it must be made by the Board.

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

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

corresponding federal requirements within the codification scheme of the *Illinois Administrative Code*.

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

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

The Joint Committee on Administrative Rules has requested that the Board refer to the United States Environmental Protection Agency in the same manner throughout all of our bodies of regulations—*i.e.*, air, water, drinking water, RCRA Subtitle D (municipal solid waste landfill), RCRA Subtitle C (hazardous waste), underground injection control (UIC), etc. The Board has decided to refer to the United States Environmental Protection Agency as “USEPA.” The Board will continue this conversion in future rulemakings as additional sections become open to amendment. The Board will further convert “EPA” used in federal text to “USEPA,” where USEPA is clearly intended.

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

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

The tables below list numerous corrections and amendments that are not based on current federal amendments. Table 1 outlines federal amendments of June 13, 2011 that are not necessary in this docket, with summary explanation why the Board need take no action with regard to each. Table 2 includes deviations made in this proposal for public comment from the verbatim text of the federal amendments. Table 3 contains corrections and clarifications that the Board made in the base text involved in this proposal. The amendments listed in Table 3 are not directly derived from the current federal amendments. Some of the entries in these tables are discussed further in appropriate segments of the general discussion beginning in this opinion.

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

Illinois Section	40 C.F.R. Section	Revision(s)
720.110 “carbon dioxide stream”	260.10 “carbon dioxide stream”	Placed the defined term in quotation marks; added the indefinite article before “power plant.”
720.110 “no free liquids”	260.10 “no free liquids”	Placed the defined term in quotation marks; added a comma before “as determined by”; removed the parenthetical document designation “(SW-846) and moved the comma inside the closing quotation mark; changed “which is incorporated by reference” to “incorporated by reference in Section 611.111”; changed “another standard or test method as defined by an authorized state” to “another standard or test method that the Agency has determined by permit condition is equivalent to Method 9095B.”
720.110 “solvent-contaminated wipe”	260.10 “solvent-contaminated wipe”	Placed the defined term in quotation marks; added “the following”; replaced the em-dash with a colon; removed the subsection designations; changed “either” to “fulfills one or more of the following conditions”; added “the wipe” before “contains”; added “the wipe” before “exhibits” (twice); changed “and/or” to “or”; changed the ending period after the third subsidiary segment to a semicolon and added the ending conjunction “and.”
720.110 “wipe”	260.10 “wipe”	Placed the defined term in quotation marks.
720.111(a), NTIS, “Test Methods for Evaluating Solid Waste, Physical/ Chemical Methods”	260.10 “no free liquids,” 260.11(c)(3)-(xxvii)	Added “35 Ill. Adm. Code 720.110,” offset by a semicolon; added the semicolon after “Appendix I to 35 Ill. Adm. Code 721.110,” to separate elements of a series that includes a sub-series.

720.111(b), 40 C.F.R. 190	260.10 261.4(h)(1)	Added the incorporation by reference to support reliance on the U.S. DOT standards.
720.111(b), 40 C.F.R. 191	260.10 261.4(h)(1)	See the explanation in the entry for 720.111(b), 40 C.F.R. 190 above.
720.111(b), 40 C.F.R. 192	260.10 261.4(h)(1)	See the explanation in the entry for 720.111(b), 40 C.F.R. 190 above.
720.111(b), 40 C.F.R. 193	260.10 261.4(h)(1)	See the explanation in the entry for 720.111(b), 40 C.F.R. 190 above.
720.111(b), 40 C.F.R. 194	260.10 261.4(h)(1)	See the explanation in the entry for 720.111(b), 40 C.F.R. 190 above.
720.111(b), 40 C.F.R. 195	260.10 261.4(h)(1)	See the explanation in the entry for 720.111(b), 40 C.F.R. 190 above.
720.111(b), 40 C.F.R. 198	260.10 261.4(h)(1)	See the explanation in the entry for 720.111(b), 40 C.F.R. 190 above.
720.111(b), 40 C.F.R. 199	260.10 261.4(h)(1)	See the explanation in the entry for 720.111(b), 40 C.F.R. 190 above.
720.111(c), chapter 601 of Subtitle VIII of 49 U.S.C.	260.10 261.4(h)(1)	Added the incorporation by reference to support reliance on the statutory standards.
721.104(a)(26)	261.4(a)(26)	Added “all of the following conditions are fulfilled.”
721.104(a)(26)(A)	261.4(a)(26)(i)	Removed the unnecessary conjunction “or” from before “when the solvent-contaminated wipes.”
721.104(a)(26)(C)	261.4(a)(26)(iii)	Added a comma before “as defined in”; changed the ending period to a semicolon for consistency within subsection (a)(26).
721.104(a)(26)(E)(i)	261.4(a)(26)(v)(A)	Added the definite article before “name and address.”
721.104(a)(26)(E)(ii)	261.4(a)(26)(v)(B)	Added the definite article before “documentation”; added the ending conjunction “and.”

721.104(a)(26)(E)(iii)	261.4(a)(26)(v)(C)	Added the indefinite article before “description of the process”; added “that” before “the solvent-contaminated wipes”; added the ending conjunction “and.”
721.104(a)(26)(F)	261.4(a)(26)(vi)	Added the <i>United States Code</i> citation, “(33 USC 1311 and 1317 or 33 USC 1342)”; added “or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1342.”
721.104(b)(16)	261.4(b)(16)	Added the formerly omitted explanatory statement about the lack of a corresponding Illinois provision in order to maintain structural consistency with the federal rules. ⁴⁴
721.104(b)(17)	261.4(b)(17)	Added the formerly omitted explanatory statement about the lack of a corresponding Illinois provision in order to maintain structural consistency with the federal rules. ⁴⁵
721.104(b)(18)	261.4(b)(18)	Added “all of the following conditions are fulfilled.”
721.104(b)(18)(A)	261.4(b)(18)(i)	Removed the unnecessary conjunction “or” from before “when the solvent-contaminated wipes.”

⁴⁴ USEPA added an exclusion for a single facility outside Illinois at 65 Fed. Reg. 54955 (Sep. 12, 2000). The board did not adopt the exclusion. See UIC Update, USEPA Amendments (July 1, 2000 through December 31, 2000), R01-21, RCRA Subtitle C Update, USEPA Amendments (July 1, 2000 through December 31, 2000), R01-23 (May 17, 2001); see also 415 ILCS 5/7.2(a)(1) (2012) (prohibiting adoption of USEPA regulations that do not apply to facilities in Illinois. USEPA withdrew the provision at 73 Fed. Reg. 35944 (June 25, 2008).

⁴⁵ USEPA added an exclusion for a single facility outside Illinois at 75 Fed. Reg. 36850 (June 27, 2005). The board did not adopt the exclusion. See RCRA Subtitle C Update, USEPA Amendments (March 5, 2005, September 8, 2005, January 1, 2006 through June 30, 2006), R07-5, RCRA Subtitle C Update, USEPA Amendments (July 1, 2006 through December 31, 2006), R07-14 (June 5, 2008); see also 415 ILCS 5/7.2(a)(1) (2012) (prohibiting adoption of USEPA regulations that do not apply to facilities in Illinois.

721.104(b)(18)(C)	261.4(b)(18)(iii)	Added a comma before “as defined in”; changed the ending period to a semicolon for consistency within subsection (b)(18).
721.104(b)(18)(E)(i)	261.4(b)(18)(v)(A)	Added the definite article before “name and address.”
721.104(b)(18)(E)(ii)	261.4(b)(18)(v)(B)	Added the definite article before “documentation”; added the ending conjunction “and.”
721.104(b)(18)(E)(iii)	261.4(b)(18)(v)(C)	Added the indefinite article before “description of the process”; added “that” before “the solvent-contaminated wipes”; added the ending conjunction “and.”
721.104(b)(18)(F)	261.4(b)(18)(vi)	Added “at one of the following facilities.”
721.104(b)(18)(F)(i)	261.4(b)(18)(vi)(A)	Retained the language pertaining to municipal solid waste landfills and moved that pertaining to hazardous waste landfills into subsection (b)(18)(F)(ii); changed “40 CFR part 258, including 40 CFR 258.40” to “RCRA Subtitle D Regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947”; added the ending semicolon.

721.104(b)(18)(F)(ii)	261.4(b)(18)(vi)(A)	Moved that pertaining to hazardous waste landfills into this subsection; changed “40 CFR part 264 or 265” to “RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.”
721.104(b)(18)(F)(iii)	261.4(b)(18)(vi)(B)	Changed the natural subsection designation “ii” to “iii” to accommodate splitting the information from 40 CFR 261.4(b)(18)(vi)(B) into two subsections (b)(18)(F)(iii) and (b)(18)(F)(iv); added the <i>United States Code</i> citation, “(42 USC 7429””; added “or Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429.”
721.104(b)(18)(F)(iv)	261.4(b)(18)(vi)(B)	Moved that pertaining to hazardous waste combustors, boilers, or industrial furnaces into this subsection; changed “40 CFR part 264, 265, or 266 subpart H” to “RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266””; added “or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.”
721.104(h)	260.4(h)	Changed “Class VI Underground Injection Control wells” to “Class VI carbon sequestration injection wells””; changed “40 CFR Parts 144 and 146 for the Underground Injection Control wells” to “35 Ill. Adm. Code 704 and 730.”

721.104(h)(1)	260.4(h)(1)	Changed “49 U.S.C. 60101 et seq.” to “chapter 601 of subtitle VIII or 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111”; changed “40 CFR Parts 190-199” to “40 CFR 190 through 195, 198, and 199, incorporated by reference in 35 Ill. Adm. Code 720.111”; changed 49 U.S.C. 60105” to “49 USC, 60105, incorporated by reference in 35 Ill. Adm. Code 720.111”; added “49 C.F.R. 171 through 180, incorporated by reference in 35 Ill. Adm. Code 721.111.”
721.104(h)(1) Board note	260.4(h)(1), 79 Fed. Reg. 350, 354 (Jan. 3, 2014)	Added explanation of addition of references to USDOT regulations for transportation by air, water, highway, or rail.
721.104(h)(2)	260.4(h)(2)	Changed “Class VI Underground Injection Control wells” to “Class VI carbon sequestration injection wells”; changed “40 CFR Parts 144 and 146 for the Underground Injection Control wells” to “35 Ill. Adm. Code 704 and 730.”
721.104(h)(4)	260.4(h)(4)	Added “Required Certifications” at a topical subheading.
721.104(h)(4)(A) certification statement	260.4(h)(4)(i) certification statement	Added quotation marks to the required statement; added “U.S.” before “Department of Transportation”; added “federal” before and “(42 USC 300f et seq.)” after “Safe Drinking Water Act.”
721.104(h)(4)(B)	260.4(h)(4)(ii)	Changed “Class VI Underground Injection Control wells” to “Class VI carbon sequestration injection wells.”

721.104(h)(4)(B) certification statement	260.4(h)(4)(ii) certification statement	Added quotation marks to the required statement; changed “Underground Injection Control (UIC)” to the defined term “UIC”; changed “40 CFR Parts 144 and 146 of the Underground Injection Control Program of the Safe Drinking Water Act” to “35 Ill. Adm. Code 704 and 730.”
721.104(h)(4)(C)	260.4(h)(4)(iii)	Changed “Administrator, Regional Administrator, or state Director (if located in an authorized state)” to “Agency or USEPA”; changed within one year of” to “within one year after”; changed “Web site” to “website.”

**Table 2:
Independently Proposed Amendments That Are Included in This Docket**

Provision Citations 40 C.F.R./ 35 Ill. Adm. Code	USEPA Amendment/ Explanation Why Not Made in This Docket
720 source note	Add the citation to the R14-8 amendments.
720.111(b), 40 C.F.R. 3.3	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 3.10	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 3.2000	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 51.100(ii)	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix W to 40 C.F.R. 51	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix B to 40 C.F.R. 52.741	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 60	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.

720.111(b), subpart VV of 40 C.F.R. 60	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix A to 40 C.F.R. 60	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 61	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), subpart V of 40 C.F.R. 61	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), subpart FF of 40 C.F.R. 61	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 63	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), subpart RR of 40 C.F.R. 63	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), subpart EEE of 40 C.F.R. 63	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), Method 301 in appendix A to 40 C.F.R. 63	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix C to 40 C.F.R. 63	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix D to 40 C.F.R. 63	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 136.3	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 144.70	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 232.2	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 257	Update the <i>Code of Federal Regulations</i> citation to the latest version available.

720.111(b), subpart B of 40 C.F.R. 257	Add the formerly omitted <i>Code of Federal Regulations</i> citation.
720.111(b), 40 C.F.R. 258	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 260.21(b)	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 261.151	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix III to 40 C.F.R. 261	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 262.53	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 262.54	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 262.55	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 262.56	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 262.57	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix to 40 C.F.R. 262	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 264.151	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix I to 40 C.F.R. 264	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix I to 40 C.F.R. 264	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix IV to 40 C.F.R. 264	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix V to 40 C.F.R. 264	Update the <i>Code of Federal Regulations</i> citation to the latest version available.

720.111(b), appendix VI to 40 C.F.R. 264	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix I to 40 C.F.R. 265	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix III to 40 C.F.R. 265	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix IV to 40 C.F.R. 265	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix V to 40 C.F.R. 265	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), appendix IX to 40 C.F.R. 265	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 267.151	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 270.5	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 761	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 40 C.F.R. 761.3	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 40 C.F.R. 761.60	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 40 C.F.R. 761.65	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 40 C.F.R. 761.70	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), subpart B of 49 C.F.R. 107	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 171	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 49 C.F.R. 171.3	Update the <i>Code of Federal Regulations</i> citation to the latest version available.

720.111(b), 49 C.F.R. 171.8	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 171.15	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 171.16	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 172	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 49 C.F.R. 172.304	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), subpart F of 49 C.F.R. 172	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 49 C.F.R. 173	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 49 C.F.R. 173.2	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 173.12	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 49 C.F.R. 173.28	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 173.50	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 173.54	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 173.115	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 173.127	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 174	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 175	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.

720.111(b), 49 C.F.R. 176	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 177	Update the <i>Code of Federal Regulations</i> citation to the latest version available.
720.111(b), 49 C.F.R. 178	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 49 C.F.R. 179	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(b), 49 C.F.R. 180	Update the <i>Code of Federal Regulations</i> citation to the latest version available, including remove obsolete <i>Federal Register</i> citations.
720.111(c), sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act	Update the <i>United States Code</i> citation to the latest version available.

**Table 3:
Board Housekeeping Amendments**

Section	Source	Revision(s)
720.110 “boiler”	Board	Changed “boiler characteristics” to “boiler by characteristics”; changed the ending period to a colon.
720.110 “designated facility”	Board	Removed the unnecessary parenthetical date “(2010)” from the <i>Code of Federal Regulations</i> citation (twice).
720.110 “dioxins and furans”	Board	Removed the unnecessary alternative defined term “or ‘D/F’,” which is used only in one location in the regulations, where it is parenthetically defined in a potentially conflicting way. ⁴⁶

⁴⁶ In 726.212(b)(2)(A), the following appears: “for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans (D/F), analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorodibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans.” This adds tetrachlorinated species and omits octochlorinated species that are included in the definition of “dioxins and furans in 35 Ill. Adm. Code 720.110. While “D/F” does appear in corresponding 40 C.F.R. 260.10 (definition of “dioxins and furans”), it does not appear in 40 C.F.R. 266.112(b)(2)(i). In fact, “D/F” appears nowhere else in 40 C.F.R. 260 through 273, and 279.

720.110 “inactive portion”	Board	Changed “is not operated after November 19, 1980” to past-tense “was not operated after November 19, 1980.”
720.110 “industrial furnace”	Board	Added a comma before “and refining” to offset the final element of a series.
720.110 “on-site”	Board	Corrected “noncontiguous” to hyphenated “non-contiguous.”
720.110 “pile”	Board	Corrected “noncontainerized” to hyphenated “non-containerized.”
720.110 “tank”	Board	Corrected “nonearthen” to hyphenated “non-earthen.”
720.111(a), OECD, “OECD Guidance Manual”	Board	Added the adoption date “(June 14, 2001)” for OECD decision C(2001)107/FINAL; added the formerly omitted reference to “C(2001)107/ADD1 (February 28, 2002)”;
720.111(a), OECD, “OECD Guideline for Testing of Chemicals”	Board	Added the adoption date “(March 9, 2001)” for OECD decision C(2004)20; added the adoption date “(December 2, 2005)” for OECD decision C(2005)141; added the adoption date “(December 4, 2005)” for the OECD decision C(2008)156.
720.111(b), appendix C to 40 C.F.R. 63	Board	Corrected “CO2” to subscripted “CO ₂ .”
720.111(b), 10 C.F.R. 71	Board	Corrected “Fbio” to subscripted “F _{bio} .”
720.111(b), 40 C.F.R. 60	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 40 C.F.R. 60	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 49 C.F.R. 171	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.

720.111(b), 49 C.F.R. 171.8	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 49 C.F.R. 172	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), subpart F of 49 C.F.R. 172	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 49 C.F.R. 173	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 49 C.F.R. 175	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 49 C.F.R. 176	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 49 C.F.R. 177	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
720.111(b), 49 C.F.R. 178	Board	Updated the <i>Code of Federal Regulations</i> citation by adding a citation to the <i>Federal Register</i> for later amendments.
721.104(a)(17)	Board	Corrected the spelling “benefication” to “beneficiation.”
721.104(a)(24)(E)- (iii)	Board	Placed quotation marks on the certification statement.
721.104(a)(25)(K)(v)	Board	Placed quotation marks on the certification statement.
721.104(b)(15)(A)- (iv)	Board	Added the <i>United States Code</i> citation, “(33 USC 1317(b) or 1342).”
721.104(b)(15)(B)	Board	Changed “K169, . . . , K177, or K178” to “K169, . . . , K177, K178, or K181” and removed the entire sentence subject to a past effective date, “After February 26, 2007, leachate or gas condensate derived from K181 waste will no longer be exempt . . . prior to discharge.”

721.104(c)	Board	Added the <i>United States Code</i> citation, “(42 USC 6930).”
721.104(f)	Board	Added the <i>United States Code</i> citation, “(42 USC 6930).”
721.105(b)	Board	Added the <i>United States Code</i> citation, “(42 USC 6930).”
721.105(e)	Board	Added the <i>United States Code</i> citation, “(42 USC 6930).”
721.105(g)(1)	Board	Added “the hazardous waste determination requirements of” before “35 Ill. Adm. Code 722.111.”
721.105(g)(3)(E))	Board	Added “CESQG waste landfill disposal standards in” before “40 CFR 257.5 through 257.30.”
721.105(j)	Board	Added “the used oil standards in” before “35 Ill. Adm. Code 739.”

ORDER

The Board directs the Clerk to provide notice in the *Illinois Register* of the following proposed amendments to the Illinois RCRA Subtitle C hazardous waste regulations at 35 Ill. Adm. Code 720 and 721:

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

PART 720
 HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110 Definitions
 720.111 References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section	
720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations and Non-Waste Determinations
720.131	Solid Waste Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.134	Non-Waste Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis
720.141	Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
720.142	Notification Requirement for Hazardous Secondary Materials
720.143	Legitimate Recycling of Hazardous Secondary Materials
720.APPENDIX A	Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-

3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. _____, effective _____; amended in R14-13 at 38 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

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

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

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

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

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

“Agency” means the Illinois Environmental Protection Agency.

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

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

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

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

“Board” means the Illinois Pollution Control Board.

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

Boiler by physical characteristics:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

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

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

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

Receiving broken or intact CRTs;

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

Sorting or otherwise managing glass removed from CRT monitors.

“Designated facility” means either of the following entities:

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

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

The facility has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270-~~(2010)~~;

The facility has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271-~~(2010)~~; or

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

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

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

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

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

“Dioxins and furans” 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 runoff 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 or for managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The generator provides either of the following certifications:

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

or

“On behalf of [insert generator facility name] I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name

of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.”

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

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

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

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

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

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

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

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

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

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

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

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

The facility is not listed as an industrial furnace; or

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

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

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

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

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

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

Cement kilns;

Lime kilns;

Aggregate kilns;

Phosphate kilns;

Coke ovens;

Blast furnaces;

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

Titanium dioxide chloride process oxidation reactors;

Methane reforming furnaces;

Pulping liquor recovery furnaces;

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

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

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

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

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

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

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

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

Other relevant factors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“LDS” means leak detection system.

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

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

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

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

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

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

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

“Military munitions” means all ammunition products and components produced or used by or for the United States Department of Defense or the United States Armed Services for national defense and security, including military munitions

under the control of the United States Department of Defense (USDOD), the United States Coast Guard, the United States Department of Energy (USDOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by USDOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components of these items and devices. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components of these items and devices. However, the term does include non-nuclear components of nuclear devices, managed under USDOE's nuclear weapons program after all sanitization operations required under the Atomic Energy Act of 1954 (42 USC 2014 et seq.), as amended, have been completed.

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

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

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

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

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

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

“No free liquids,” as used in 35 Ill. Adm. Code 721.104(a)(26) and (b)(18), means that solvent-contaminated wipes may not contain free liquids, as determined by

Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” incorporated by reference in Section 720.111, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method that the Agency has determined by permit condition is equivalent to Method 9095B.

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

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

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

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

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

Control of emission of the gaseous combustion products.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Qualified groundwater scientist” means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications, or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport. BOARD NOTE: State registration includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes, but is not limited to, certification under the certified groundwater professional program of the National Ground Water Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Solvent-contaminated wipe” means the following:

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

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

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

The wipe exhibits only the hazardous waste characteristic of ignitability found in 35 Ill. Adm. Code 721.121 due to the presence

of one or more solvents that are not listed in 35 Ill. Adm. Code 721; and

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

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

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

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

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

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

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

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

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

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

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

“Thermostat” means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and mercury-containing ampules that have been removed from such a temperature control device in compliance with 35 Ill. Adm. Code 733.113(c)(2) or 733.133(c)(2).

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

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

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

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

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

“Treatability study” means the following:

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

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Universal waste handler” means either of the following:

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

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

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

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

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

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

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

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

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

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

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

“USPS” means the United States Postal Service.

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

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

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

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

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

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

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

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

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

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

(Source: Amended at 35 Ill. Reg. 17672, effective October 14, 2011)

Section 720.111 References

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

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

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

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

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

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

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

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

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

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

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

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

"Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," 4th Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 724.291, 724.293, 725.291, and 725.292.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision

Method),” approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“APTI Course 415: Control of Gaseous Emissions,” December 1981, USEPA publication number EPA-450/2-81-005, NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935.

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

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

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

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: water.epa.gov/scitech/methods/cwa/methods_index.cfm. Revision

A is also from the USEPA, National Service Center for Environmental Publications (NSCEP) website at www.epa.gov/nscep/index.html.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OECD Guidance Manual. "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," 2009 (also called "Guidance Manual for the Control of Transboundary Movements of

Recoverable Materials” in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008):

“Annex A: OECD Decision C(2001)107/FINAL, as Amended by C(2004)20; C(2005)141 and C(2008)156” (also called “Revision of Council Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations,” within the text of Annex A, and “Decision of the Council Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations” in the original OECD decision source document, C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008)).

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

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

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA’s lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions

C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to “OECD C(2001)107/FINAL” in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

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

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

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

USDOD. Available from the United States Department of Defense:

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

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

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

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

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

BOARD NOTE: DOD 6055.09-STD is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>. DD Form 1348, DD

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

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

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

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

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

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

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

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

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

USGSA. Available from the United States Government Services Administration:

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

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

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

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

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

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

10 CFR 71 (2013), as amended at ~~77 Fed. Reg. 39899 (July 6, 2012)~~ 78 Fed. Reg. 16922 (Mar. 19, 2013) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

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

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

40 CFR 3.3-~~(2012)~~ (2013) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10-~~(2012)~~ (2013) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000-~~(2012)~~ (2013) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii)-~~(2012)~~ (2013) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51-~~(2012)~~ (2013) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

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

Appendix B to 40 CFR 52.741-~~(2012)~~ (2013) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

~~40 CFR 60 (2012), as amended at 77 Fed. Reg. 44488 (July 30, 2012); 77 Fed. Reg. 48433 (Aug. 14, 2012); 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 56421 (Sept. 12, 2012) (2013), as amended at 78 Fed. Reg. 58415 (Sept. 19, 2013) and 78 Fed. Reg. 76753 (Dec. 19, 2013)~~ (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR ~~60 (2012)~~ (2013) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Appendix A to 40 CFR ~~60 (2012)~~ (2013) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 CFR 61-~~(2012)~~ (2013) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61-~~(2012)~~ (2013) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 724.989 and 725.990.

Subpart FF of 40 CFR 61-~~(2012)~~ (2013) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63-~~(2012)~~, as amended at ~~77 Fed. Reg. 41075 (July 12, 2012); 77 Fed. Reg. 49489 (Aug. 16, 2012); 77 Fed. Reg. 55698 (Sept. 11, 2012); 77 Fed. Reg. 58219 (Sept. 19, 2012); 77 Fed. Reg. 65135 (Oct. 25, 2012); 77 Fed. Reg. 75739 (Dec. 21, 2012)~~ (2013), as amended at 78 Fed. Reg. 79317 (Dec. 30, 2013) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63-~~(2012)~~ (2013) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 724.984, 724.985, 725.985, and 725.986.

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

Subpart EEE of 40 CFR 63-~~(2012)~~ (2013) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63-~~(2012)~~ (2013) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

Appendix C to 40 CFR 63-~~(2012)~~ (2013) (Determination of the Fraction Biodegraded (~~F_{bio}~~)-(F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63-~~(2012)~~ (2013) (Test Methods), referenced in 35 Ill. Adm. Code 725.984.

40 CFR 136.3 (Identification of Test Procedures)-~~(2012)~~ (2013), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2-~~(2012)~~ (2013) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257-~~(2012)~~ (2013) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257 (2013) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 721.105.

40 CFR 258-~~(2012)~~ (2013) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b)-~~(2012)~~ (2013) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261-~~(2012)~~ (2013) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53-~~(2012)~~ (2013) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54-~~(2012)~~ (2013) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55-~~(2012)~~ (2013) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56-~~(2012)~~ (2013) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57-~~(2012)~~ (2013) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262-~~(2012)~~ (2013) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

Appendix I to 40 CFR 264-~~(2012)~~ (2013) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264-~~(2012)~~ (2013) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264-~~(2012)~~ (2013) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264-~~(2012)~~ (2013) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

Appendix I to 40 CFR 265-~~(2012)~~ (2013) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265-~~(2012)~~ (2013) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265-~~(2012)~~ (2013) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265-~~(2012)~~ (2013) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266-~~(2012)~~ (2013) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

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

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

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

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

40 CFR 267.151-~~(2012)~~ (2013) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5-~~(2012)~~ (2013) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 761-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60-~~(2012)~~ (2013) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70-~~(2012)~~, as amended at ~~77 Fed. Reg. 46289 (Aug. 3, 2012); 77 Fed. Reg. 54818 (Sept. 6, 2012)~~ (2013) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107-~~(2012)~~ (2013) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171-~~(2012)~~, as amended at ~~77 Fed. Reg. 60935 (Oct. 5, 2012)~~ (2013), as amended at ~~78 Fed. Reg. 60745 (Oct. 2, 2013) and 78 Fed. Reg. 65454 (Oct. 31, 2013)~~ (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3-~~(2012)~~ (2013) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8-~~(2012)~~ (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15-~~(2012)~~ (2013) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16-~~(2012)~~ (2013) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013), 78 Fed. Reg. 65454 (Oct. 31, 2013), and 78 Fed. Reg. 69310 (Nov. 19, 2103) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

49 CFR 172.304-~~(2012)~~ (2013) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart F of 49 CFR 172-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) (Placarding), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 173-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) and 78 Fed. Reg. 65454 (Oct. 31, 2013) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2-~~(2012)~~ (2013) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28-~~(2012)~~ (2013) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50-~~(2012)~~ (2013) (Class 1—Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54-~~(2012)~~ (2013) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115-~~(2012)~~ (2013) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127-~~(2012)~~ (2013) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174-~~(2012)~~ (2013) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176-~~(2012)~~ (2013), as amended at 78 Fed. Reg. 65454 (Oct. 31, 2013) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177-~~(2012)~~ (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 178-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013), as amended at 78 Fed. Reg. 60745 (Oct. 2, 2013) and 78 Fed. Reg. 65454 (Oct. 31, 2013) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179-~~(2012)~~, as amended at 77 Fed. Reg. 60935 (Oct. 5, 2012) (2013) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180-~~(2012)~~ (2013) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

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

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

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

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

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

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

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

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

c) Federal Statutes:

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

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j))-(2014) (2012), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

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

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

d) This Section incorporates no later editions or amendments.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

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; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.104 Exclusions

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:

- 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.

- 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act [415 ILCS 5/12(f)] and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

- 3) Irrigation return flows.

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

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

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

- 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).

- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
 - A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and

- D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B) of this Section, so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and
 - v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: “I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation.” The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of

compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

- 10) Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.
- 11) Nonwastewater splash condenser dross residue from the treatment of hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, gasification (as defined in 35 Ill. Adm. Code 720.110), or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B) of this

Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D of this Part, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.

- B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A) of this Section. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D of this Part; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.
- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
- A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
- B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) Comparable fuels or comparable syngas fuels that meet the requirements of Section 721.138.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D of this Part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by ~~beneficiation~~, beneficiation, provided that the following is true:

- A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
- B) The spent material is not accumulated speculatively;
- C) Except as provided in subsection (a)(17)(D) of this Section, the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.
- D) The Agency must allow by permit that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
 - i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

- ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have runoff and runoff controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.
- iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

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

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
 - F) For purposes of subsection (b)(7) of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.
- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:
- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste code D018);
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being

recycled into the petroleum refining process. An “associated organic chemical manufacturing facility” is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. “Petrochemical recovered oil” is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
 - A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
 - B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
 - i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must

have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F) of this Section:

- iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G) of this Section.
- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:
- i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in subsection (a)(20)(B)(ii) of this Section.
 - ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

- iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.
- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.
- F) A container used to store excluded secondary material must fulfill the following conditions:
- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) It must prevent run-on into the containment system.
- BOARD NOTE: Subsections (a)(20)(F)(i) through (a)(20)(F)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(B)(1) through (a)(20)(ii)(B)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(F) to comport with Illinois Administrative Code codification requirements.
- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:
- i) The name of the transporter and date of the shipment;
 - ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and

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

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

- 21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20) of this Section, provided that the following conditions are fulfilled:
- A) The fertilizers meet the following contaminant limits:
- i) For metal contaminants:
- | Constituent | Maximum Allowable Total Concentration
in Fertilizer, per Unit (1%) of Zinc (ppm) |
|-------------|---|
| Arsenic | 0.3 |
| Cadmium | 1.4 |
| Chromium | 0.6 |
| Lead | 2.8 |
| Mercury | 0.3 |
- ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).
- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.
- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B) of this Section. Such records must at a minimum include the following:

- i) The dates and times product samples were taken, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons taking the samples;
 - iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).
- 22) Used CRTs.
- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
 - B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
 - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
 - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).
- 23) Hazardous secondary materials managed in land-based units. Hazardous secondary material generated and reclaimed within the United States or its territories and managed in land-based units, as defined in 35 Ill. Adm. Code 720.110, is not a solid waste if the following conditions are fulfilled with regard to the material:
- A) The material is contained;
 - B) The material is a hazardous secondary material generated and reclaimed under the control of the generator, as defined in 35 Ill. Adm. Code 720.110;

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

- i) The hazardous secondary material must be contained.
- ii) This subsection (a)(24)(E)(ii) applies when non-RCRA management of hazardous secondary material will occur at a reclamation facility or transfer facility. For the purposes of this subsection (a)(24), “non-Subtitle C management” is management of the hazardous secondary material that is not addressed under a RCRA Part B permit or under the interim status facility standards (of 35 Ill. Adm. Code 725 or similar regulations authorized by USEPA as equivalent to 40 CFR 265). Prior to arranging for transport of hazardous secondary materials to a reclamation facility where non-Subtitle C management will occur, the hazardous secondary material generator must make reasonable efforts to ensure that the reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that the reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will pass through an intermediate facility where non-RCRA management will occur, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of once every three years for the hazardous secondary material generator to claim the exclusion of this subsection (a)(24) and to send the hazardous secondary materials to a reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must make the series of affirmative determinations set forth in subsection (a)(24)(H) of this Section for each reclamation facility and intermediate facility that will manage its waste.

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(B) makes it clear that USEPA intends that the generator undertake this determination for each reclaimer that will manage its hazardous secondary

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

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

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

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(C) combines the requirements for records retention and availability for inspection with the requirement for certification. The Board combined the certification requirements from 40 CFR 261.4(a)(24)(v)(C), (a)(24)(v)(C)(1), and (a)(24)(v)(C)(2) in this single subsection (a)(24)(E)(iii). This combination allowed compliance with codification requirements relating to the maximum permissible indent level. The Board moved the records retention and availability for inspection requirements to subsection (a)(24)(E)(iv) of this Section. This forced renumbering 40 CFR 261.4(a)(24)(v)(D) and

(a)(24)(v)(E) as subsections (a)(24)(E)(v) and (a)(24)(E)(vi) of this Section. Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning.

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

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

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

BOARD NOTE: The Board combined and moved the shipping documentation and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(D)(1) through (a)(24)(v)(D)(3) to this single subsection (a)(24)(E)(v). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- vi) The hazardous secondary material generator must maintain at the generating facility, for a minimum of three years, for every off-site shipment of hazardous secondary materials, confirmations of receipt from each reclaimer and intermediate facility to which its hazardous secondary materials were sent. Each confirmation of receipt must include the name and address of the reclaimer (or

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

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

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

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

- ii) The intermediate facility must send the hazardous secondary material to the reclaimers designated by the generator of the hazardous secondary materials.
- iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt).
- iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An “analogous raw material” is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.
- v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C of this Part, or if the residuals themselves are specifically listed as hazardous waste in Subpart D of this Part, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.
- vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H of this Part.

- G) Any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24) must provide notification as required by 35 Ill. Adm. Code 720.142.
- H) For the purposes of subsection (a)(24)(E)(ii) of this Section, the hazardous secondary material generator must affirmatively determine that each of the following conditions is true for each reclamation facility and any intermediate facility that will manage the generator's hazardous secondary material:
- i) Available information indicates that the reclamation process is legitimate recycling, as determined pursuant to 35 Ill. Adm. Code 720.143. In making this determination, the hazardous secondary material generator may rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as on information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process. (By making this determination, the hazardous secondary material generator has also satisfied the requirement in 35 Ill. Adm. Code 720.143(a) that the generator demonstrate that the recycling is legitimate).
 - ii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has submitted the notification required by 35 Ill. Adm. Code 720.142, and these facilities have submitted the required proofs of financial assurance as required by the applicable of Section 721.243(a)(1), (b)(1), (c)(1), (d)(1), (e)(3), and (g) and notification of financial assurance pursuant to 35 Ill. Adm. Code 720.142(a)(5). In making this dual determination, the hazardous secondary material generator may rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements pursuant to 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify the Agency whether the reclaimer or intermediate facility has financial assurance.
 - iii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, and the facility has not

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

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

- iv) Available information indicates that the reclamation facility and any intermediate facility used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material. In making this determination, the generator may rely on a description made by the reclamation facility or an independent third party of the equipment and trained personnel that the facility will use to manage and recycle the generator's hazardous secondary material.
- v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation

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

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

- 25) Hazardous secondary materials exported for recycling. Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, so long as the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) of this Section, except that the requirements of subsection (a)(24)(H)(ii) of this Section (requiring the use of publicly available information to verify that the facility has submitted required notifications) do not apply to foreign reclaimers and intermediate facilities, and the hazardous secondary material generator also complies with the following requirements:
- A) The generator must notify the Agency and USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a period up to 12 months in duration, but not longer. The notification must be in writing and signed by the hazardous secondary material generator, and must include the following information:
 - i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;

- ii) A description of the hazardous secondary material; the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; and the USDOT proper shipping name, hazard class, and identification number (UN or NA number) for each hazardous secondary material, as identified in 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111;
 - iii) The estimated frequency or rate at which the hazardous secondary material is to be exported, and the period of time over which the hazardous secondary material is to be exported;
 - iv) The estimated total quantity of hazardous secondary material;
 - v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
 - vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), and the types of container (drums, boxes, tanks, etc.));
 - vii) A description of the manner in which the hazardous secondary material will be reclaimed in the receiving country;
 - viii) The name and address of each reclaimer, any intermediate facility, and any alternative reclaimer and intermediate facilities; and
 - ix) The name of any transit countries through which the hazardous secondary material will be sent, together with a description of the approximate length of time the material will remain in each transit country and the nature of the handling of the material while in the country (for purposes of this Section, the meanings of the terms “Acknowledgement of Consent,” “receiving country,” and “transit country” are as defined in 35 Ill. Adm. Code 722.151, with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).
- B) Submission of notification of intent to export hazardous secondary material. Whether delivered by mail or hand delivery, the

following words must prominently appear on the front of the envelope: "Attention: Notification of Intent to Export."

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

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

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

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

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

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

- C) Except for a change in the telephone number submitted pursuant to subsection (a)(25)(A)(i) of this Section or a decrease in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv) of this Section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide the Agency and USEPA with a written re-notification of the change. The shipment cannot take place until consent of the receiving country to the

changes (except for changes to subsection (a)(25)(A)(ix) of this Section and in the ports of entry to and departure from transit countries pursuant to subsection (a)(25)(A)(v) of this Section) has been obtained and the hazardous secondary material generator receives from USEPA an Acknowledgment of Consent reflecting the receiving country's consent to the changes.

- D) Upon request from the Agency or USEPA, the hazardous secondary material generator must furnish to the Agency and USEPA any additional information that a receiving country requests in order to respond to a notification.
- E) USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when USEPA determines that the notification satisfies the requirements of subsection (a)(25)(A) of this Section. When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A) of this Section, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.
- F) The export of hazardous secondary material pursuant to this subsection (a)(25) is prohibited, unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the hazardous secondary material, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vi) that it will send an Acknowledgment of Consent to the hazardous secondary material generator. When the receiving country objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA has stated that it will notify the hazardous secondary material generator in writing. USEPA has stated that it will also notify the hazardous secondary material generator of any responses from transit countries.
- G) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any receiving country or transit countries to a notification provided pursuant to subsection (a)(25)(A) of this Section within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the receiving country, the trans-boundary movement may commence. In such cases, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vii) that it will send an Acknowledgment of Consent to inform the hazardous secondary material generator that the receiving country and any relevant

transit countries have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; re-notification and renewal of all consents is required for exports after that date.

- H) A copy of the Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the Acknowledgment of Consent.
- I) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another Acknowledgment of Consent.
- J) The hazardous secondary material generator must keep a copy of each notification of intent to export and each Acknowledgment of Consent for a period of three years following receipt of the Acknowledgment of Consent.
- K) Annual reporting of hazardous secondary material exports. A hazardous secondary material generator must file with the Agency and USEPA, no later than March 1 of each year, a report that summarizes the types, quantities, frequency, and ultimate destinations of all hazardous secondary materials exported during the previous calendar year. Annual reports must be sent to the addresses listed in subsection (a)(25)(B) of this Section (for mail or hand delivery, as appropriate) for submission notification of intent to export hazardous secondary material. The annual reports must include the following information:
 - i) The name, mailing and site addresses, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility that received exported hazardous secondary material from the generator;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; the USDOT

hazard class for the material, as determined pursuant to 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (where applicable) for each transporter used; the total amount of hazardous secondary material shipped; and the number of shipments pursuant to each notification;

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

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

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

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

- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

- C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
- i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
- F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.
- b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:
- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:
 - A) The facility receives and burns only the following waste:

- i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or
 - ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
- B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

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

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
 - A) The growing and harvesting of agricultural crops, or
 - B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- 6) Chromium wastes.
 - A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B to this Part) because chromium is present or which are listed in Subpart D of this Part due to the presence of chromium, that do not fail the test for the toxicity characteristic for

any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:

- i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
- ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
- iii) The waste is typically and frequently managed in non-oxidizing environments.

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

- i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
- iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
- v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

- vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
 - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
 - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.
 - B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
 - i) Slag from primary copper processing;
 - ii) Slag from primary lead processing;
 - iii) Red and brown muds from bauxite refining;
 - iv) Phosphogypsum from phosphoric acid production;
 - v) Slag from elemental phosphorus production;
 - vi) Gasifier ash from coal gasification;
 - vii) Process wastewater from coal gasification;

- viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
 - ix) Slag tailings from primary copper processing;
 - x) Fluorogypsum from hydrofluoric acid production;
 - xi) Process wastewater from hydrofluoric acid production;
 - xii) Air pollution control dust or sludge from iron blast furnaces;
 - xiii) Iron blast furnace slag;
 - xiv) Treated residue from roasting and leaching of chrome ore;
 - xv) Process wastewater from primary magnesium processing by the anhydrous process;
 - xvi) Process wastewater from phosphoric acid production;
 - xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for hazardous

waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.

- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (hazardous waste codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.
- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this Part, if these oil filters have been gravity hot-drained using one of the following methods:
 - A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;
 - C) Dismantling and hot-draining; or
 - D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
 - A) The following conditions must be fulfilled:
 - i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

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

- ii) The solid wastes described in subsection (b)(15)(A)(i) of this Section were disposed of prior to the effective date of the listing (as set forth in that subsection);
- iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
- iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).

B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, ~~or K178, or K181~~ waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. ~~After February 26, 2007, leachate or gas condensate derived from K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge.~~ There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.

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

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

- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
 - C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:
 - i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180 day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
 - F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:

- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or
 - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act” (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 726; 40 CFR parts 264 or 265 or subpart H of 49 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.
- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.
- d) Samples.
 - 1) Except as provided in subsection (d)(2) of this Section, a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:

- A) The sample is being transported to a laboratory for the purpose of testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
 - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B) of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
- A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
 - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) of this Section.
- e) Treatability study samples.
- 1) Except as is provided in subsection (e)(2) of this Section, a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any

requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:

- A) The sample is being collected and prepared for transportation by the generator or sample collector;
 - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
 - C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- 2) The exemption in subsection (e)(1) of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
- A) The generator or sample collector uses (in “treatability studies”) no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
 - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;
 - C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) of this Section are met.
 - i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or
 - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description

of the sample, including its USEPA hazardous waste number;

- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f) of this Section, or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) of this Section in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4) of this Section, for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B) of this Section, subject to the limitations of subsection (e)(3)(C) of this Section:
- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.

- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) of this Section are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F) of this Section. The generator or sample collector must apply to the Agency and provide in writing the following information:
 - i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
 - iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
 - v) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing

facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) of this Section are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11) of this Section. Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.

- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
- 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
- 3) No more than a total of 10,000 kg of “as received” media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other “as received” hazardous waste is subject to initiation of treatment in all treatability studies in any single day. “As received” waste refers to the waste as received in the shipment from the generator or sample collector.
- 4) The quantity of “as received” hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to “as received” hazardous waste.
- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
- A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of “as received” waste in storage each day;
 - E) The date the treatment study was initiated and the amount of “as received” waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
- A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.

- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:

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

“Permit” means any of the following:

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

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

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

- h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:
- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190–199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable.

BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway, or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications.

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

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

B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under paragraph (h) of this section, must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

“I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the UIC

Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730.”

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

(Source: Amended at 34 Ill. Reg. 18611, effective November 12, 2010)

Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators

- a) A generator is a conditionally exempt small quantity generator (CESQG) in a calendar month if it generates no more than 100 kilograms of hazardous waste in that month.
- b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this Section, a CESQG’s hazardous wastes are not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of Resource Conservation and Recovery Act (42 USC 6930), provided the generator complies with subsections (f), (g), and (j) of this Section.
- c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722, the generator must include all hazardous waste that it generates, except the following hazardous waste:
 - 1) Hazardous waste that is exempt from regulation under Section 721.104(c) through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;
 - 2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;
 - 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);

- 4) Hazardous waste that is used oil managed pursuant to Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
 - 5) Hazardous waste that is spent lead-acid batteries managed pursuant to Subpart G of 35 Ill. Adm. Code 726;
 - 6) Hazardous waste that is universal waste managed pursuant to Section 721.109 and 35 Ill. Adm. Code 733; and
 - 7) Hazardous waste that is an unused commercial chemical product (that is listed in Subpart D of 35 Ill. Adm. Code 721 or which exhibits one or more characteristics in Subpart C of 35 Ill. Adm. Code 721) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to Section 722.313. For purposes of this subsection (c)(7), the term “eligible academic entity” has the meaning given that term in 35 Ill. Adm. Code 722.300.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act (42 USC 6930).
- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e); or
 - 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e).
- BOARD NOTE: “Full regulation” means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.
- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in subsections (e)(1) or

(e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

- 1) 35 Ill. Adm. Code 722.111.
- 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
- 3) A CESQG may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
 - E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills one of the following conditions:
- i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or
 - ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.
- g) In order for hazardous waste generated by a CESQG in quantities of 100 kilograms or less kilograms of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) The hazardous waste determination requirements of 35 Ill. Adm. Code 722.111;
 - 2) The CESQG may accumulate hazardous waste on-site. If it accumulates at any time 1,000 kilograms or greater of the generator's hazardous waste, all of those accumulated wastes are subject to regulation pursuant to the special provisions of 35 Ill. Adm. Code 722 applicable to generators of greater than 100 kg and less than 1,000 kg of hazardous waste in a calendar month, as well as 35 Ill. Adm. Code 702, 703, and 723 through 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930). The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;
 - 3) A CESQG may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;

- D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal CESQG waste landfill disposal standards in 40 CFR 257.5 through 257.30;

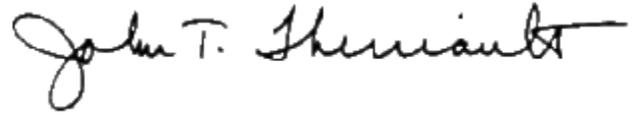
BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills the following conditions:
 - i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
 - ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.
- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.
- i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this Section, the mixture is subject to full regulation.
- j) If a CESQG's hazardous wastes are mixed with used oil, the mixture is subject to the used oil standards in 35 Ill. Adm. Code 739. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

(Source: Amended at 35 Ill. Reg. 17734, effective October 14, 2011)

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion on February 6, 2014, by a vote of 4-0.

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

John T. Therriault, Clerk
Illinois Pollution Control Board