

ILLINOIS POLLUTION CONTROL BOARD
March 20, 2008

IN THE MATTER OF:)
)
RCRA SUBTITLE C UPDATE, USEPA) R07-5
AMENDMENTS (March 5, 2005, September 8,) (Identical-in-Substance
2005, January 1, 2006 through June 30, 2006)) Rulemaking - Land)

IN THE MATTER OF:)
)
RCRA SUBTITLE C UPDATE, USEPA) R07-14
AMENDMENTS (July 1, 2006 through) (Identical-in-Substance
December 31, 2006)) Rulemaking - Land)
) (Consolidated)

Proposed Rule. Proposal for Public Comment and Deadline Extension Order.

OPINION OF THE BOARD (by G.T. Girard):

SUMMARY OF TODAY'S ACTION

This identical-in-substance rulemaking consists of two separate consolidated dockets. The rulemaking would update the Illinois hazardous waste regulations to incorporate revisions to the federal regulations. The United States Environmental Protection Agency (USEPA) adopted the federal hazardous waste amendments that prompted this action during two consecutive time periods. Those were the periods of January 1, 2006 through June 30, 2006 and July 1, 2006 through December 31, 2006. This proceeding proposes amendments to 35 Ill. Adm. Code 703, 720 through 728, and 739. Also included in this proceeding are amendments to complete Board action based on USEPA amendments of March 5, 2005 and to correct that of September 8, 2005. This proposal for public comment would also make a series of substantive and non-substantive corrections and stylistic revisions to segments of the text that are not otherwise affected by the covered federal amendments. The Board also finds that it is necessary to extend the deadline for final adoption of amendments based on this proposal until July 14, 2008, as explained in this opinion below, beginning on page 5.

This opinion and the related order propose for public comment identical-in-substance amendments in the hazardous waste program area. Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2006)) 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.* (2005)). The federal RCRA Subtitle C hazardous waste management regulations are found at 40 C.F.R. 260 through 268, 270 through 273, and 279.

Section 22.4(a) also provide that Title VII of the Act and Section 5 of the Administrative Procedure Act (5 ILCS 100/5-35 and 5-40 (2006)) do not apply to the Board's adoption of

identical-in-substance regulations.

This opinion supports an order that the Board also adopts today. 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 June 5, 2006, as is explained on pages 5 and 6 of this opinion.

As a special note, the Board particularly requests that USEPA and the Agency comment on the Board's proposal relating to certain of the July 14, 2006 corrections to the hazardous waste and used oil rules. The Board has declined to follow certain USEPA corrections, believing them to be in error. The issues raised by those segments of the corrections and the Board departures from the federal text are discussed at pages 28 through 58 of this opinion.

FEDERAL ACTIONS CONSIDERED IN THIS RULEMAKING

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

Docket R07-5: January 1, 2006 through June 30, 2006 Amendments

USEPA amended the federal hazardous waste regulations once during the period January 1, 2006 through June 30, 2006, as is summarized below:

71 Fed. Reg. 16862 (April 4, 2006)

USEPA amended various provisions of the hazardous waste regulations to reduce the paperwork burden imposed by the rules. Some of the reduced requirements apply only to members of USEPA's Environmental Performance Track Program. The affected rules include hazardous waste management facility standards and aspects of the permitting requirements and land disposal restrictions.

Docket R07-14: July 1, 2006 through December 31, 2006 Amendments

USEPA amended the federal RCRA Subtitle D regulations twice during the period July 1, 2006 through December 31, 2006, as are summarized below:

71 Fed. Reg. 40254 (July 14, 2006)

USEPA adopted a number of corrections to various of the hazardous waste and used oil management regulations.

71 Fed. Reg. 42928 (July 28, 2006)

USEPA amended the definition of hazardous waste to exclude cathode ray tubes (CRTs) that are managed within specified conditions. USEPA intends to encourage the reuse and recycling of used CRTs and glass from CRTs.

Completion of March 5, 2005 Federal Amendments

Additional action is required to complete the March 5, 2005 (70 Fed. Reg. 10776) USEPA amendments to the manifest system. The Board incorporated the changes made by USEPA into the Illinois regulations in the consolidated docket, UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-6, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005), R06-7 (Jan. 5, 2006) (consolidated). Because USEPA had codified a newer version of various provisions that would not go into effect until September 5, 2006, the Board found it necessary to depart from the structure of the corresponding federal regulations and defer removal of lapsing text until after the September 5, 2006 effective date of the federal amendments. This is the first docket after September 5, 2006 in which the Board may complete the amendments begun in consolidated docket R06-5/R05-6/R05-7. A table appeared in the Board's January 6, 2006 opinion in consolidated docket R06-5/R06-6/R06-7 outlining the additional amendments necessary to complete work on the March 5, 2005 federal manifest system amendments. The Board repeats that table below as Table 1, which begins on page 60 of this opinion.

Correction of Amendments Based on the September 8, 2005 Federal Standardized Permit Rule

On September 8, 2005 (70 Fed. Reg. 53420), USEPA adopted new Standardized Permit Rule for hazardous waste treatment and storage facilities in a new 40 C.F.R. 267. The Board adopted the corresponding provisions in the Illinois rules in a new 35 Ill. Adm. Code 727 in the consolidated update docket, UIC Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-16, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-17, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006) (consolidated).

On April 5, 2007, the Agency submitted a letter to Board staff relating corrections that the Agency perceived as necessary in Part 727. The letter raised seven areas of concern over the Illinois version of the Standardized Permit Rule. Thus, the Board has entered the letter into the consolidated docket R06-16/R06-17/R06-18 as PC 3 and into the present consolidated R07-5/R07-14 docket as PC 1, to give consideration to the issues that the letter raises. The Agency's concerns and the Board's responses are set forth beginning on page 8 of this opinion.

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

The Board engages in ongoing monitoring of federal actions. As of the date of this opinion and accompanying order, the Board has identified no USEPA actions since December 31, 2006, that further affect the RCRA Subtitle C hazardous waste rules in a way that requires immediate Board attention.

When the Board observes an action outside the nominal timeframe of a docket that requires expedited consideration, the Board will expedite consideration of those amendments in

the pending docket. Federal actions that could warrant expedited consideration include those that directly affect the amendments involved in this docket, those for which compelling reasons would warrant consideration as soon as possible, and those for which the Board has received a request for expedited consideration.

If the Board identifies any federal actions that fulfill these criteria prior to final action on the present amendments, the Board may include those amendments in the present consolidated docket R07-5/R07-14.

**Summary Listing of the Federal Actions Forming the Basis
of the Board's Actions in This Docket**

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

March 5, 2005 (70 Fed. Reg. 10776)	Amendments to the hazardous waste manifest system. (Begun by the Board in consolidated docket R06-5/R06-6/R06-7 (Jan. 5, 2006) and concluded in this docket.)
September 8, 2005 (70 Fed. Reg. 53420)	The Standardized Permit Rule. (Adopted by the Board in consolidated docket R06-16/R06-17/R06-18 (Nov. 16, 2006) and corrected in this docket.)
April 4, 2006 (71 Fed. Reg. 16862)	Paperwork reduction amendments, primarily directed towards Environmental Performance Track Program facilities.
July 14, 2006 (71 Fed. Reg. 40254)	Corrections to various rules.
July 28, 2006 (71 Fed. Reg. 42928)	Conditional exclusion of CRTs that are reused or recycled from regulation as hazardous waste.

**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 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 latest available version of the *Code of Federal Regulations* is now the 2007 edition for Titles 10, 33, 40, and 49. Each of these is incorporated by reference in Section 720.111 of

the hazardous waste regulations. The Board will amend the incorporations of these federal regulations by reference to include those editions of the *Code*. This will assure that all USDOT amendments through September 30, 2007, all NRC regulations through December 31, 2006, and all Coast Guard and USEPA amendments through June 30, 2007, will be included in the incorporations of the pertinent regulations by reference.

As of the date of this proposal for public comment, the Board has found only minor sets of amendments to the incorporated materials in Section 720.111 past the date of the 2007 edition of the *Code of Federal Regulations*. These amendments update incorporated segments of the *Code of Federal Regulations*, but it is unlikely that those amendments affect the implementation of the federal hazardous waste requirements. Nevertheless, the Board proposes to update the incorporations to include the later federal amendments. The *Federal Register* citations to the later amendments that are added to the incorporations by reference are listed in Table 2, which begins on page 68 of this opinion.

PUBLIC COMMENTS

The Board will receive public comments on this proposal for a period of 45 days following its publication in the *Illinois Register*. After that time, the Board will immediately consider adoption of the amendments, making any necessary changes made after consideration of the public comments. 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.

On April 5, 2007, the Agency submitted a letter to Board staff relating to the prior consolidated update docket, UIC Update, USEPA Amendments (January 1, 2005 through June 30, 2005, R06-16, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-17, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006) (consolidated). The Agency letter relates to the amendments adopted in consolidated update docket R06-16/R06-17/R06-18. The Agency neither timely filed this letter as a public comment during the comment period of consolidated docket R06-16/R06-17/R06-18 (*see* 35 Ill. Adm. Code 102.108(a)) nor as a motion for consideration following adoption of the amendments in that docket (*see* 35 Ill. Adm. Code 101.520, 101.902, and 102.700).

The Board has regarded the Agency letter as a public comment on the existing rules. The letter raised seven areas of concern over the amendments adopted in that prior RCRA update. Thus, the Board has entered the letter into the consolidated docket R06-16/R06-17/R06-18 as PC 3 and into the present consolidated R07-5/R07-14 docket as PC 1, to give consideration to the issues that the letter raises. The Agency comment is described as follows:

PC 1 April 5, 2007 letter from Kim Geving, Assistant Counsel, Division of Legal Counsel, Illinois Environmental Protection Agency (received April 10, 2007).

The Board has revised the text of the rules to incorporate some changes based on the Agency comments and declined to make other changes suggested by the Agency. The

discussion that begins on page 70 of this opinion considers the issues raised by the Agency comments.

**TIMETABLE FOR COMPLETION OF THIS RULEMAKING AND
EXTENSION OF THE DUE DATE**

Under Section 7.2 of the Act (415 ILCS 5/7.2(b) (2006)), 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 April 4, 2006, so that the deadline for Board adoption of these amendments was April 4, 2007.

The Board has already adopted two orders that extended the deadline for completion of this proceeding. An order dated January 26, 2007 extended the due date until October 1, 2007. An second order dated September 20, 2007 extended the due date until April 16, 2008.

The Board now finds it necessary to once more extend the due date. By this order, the Board extends the due date for final action on these amendments until July 18, 2008. This due date will allow the Board to proceed according to the following schedule of intermediate occurrences:

Extended Due date:	July 18, 2008
Date of Board vote to propose amendments:	March 20, 2008
Submission for <i>Illinois Register</i> publication:	March 31, 2008
Probable <i>Illinois Register</i> publication dates:	April 11, 2008
End of 45-day public comment period:	May 26, 2008
Date of Board vote to adopt amendments:	June 5, 2008
End of 30-day hold period for USEPA review:	July 7, 2008
Probable filing and effective date:	July 14, 2008
Probable <i>Illinois Register</i> publication date:	August 1, 2008

In addition to the reasons discussed for an extension in the January 26, 2007 and September 20, 2007 Board orders, the Board has encountered greater difficulty than originally anticipated with these amendments. The subject matter of the present proceeding initially involved more than 1000 pages of amendments. That volume has reduced to a bit more than 800 pages, as the Board has been able to remove several provisions that did not need present amendment as a result of earlier corrections. That extreme volume, as well as the difficulty of accommodating some of the underlying federal amendments, has resulted in the delayed adoption of a proposal for public comment in this matter. Two USEPA corrections that the Board declined to make and certain of the Agency comments in PC 1 required particular close attention. The issues involved with the USEPA corrections and Agency comments are considered in the appropriate segments of the following discussion.

DISCUSSION

The following discussion begins with a description of the types of deviations the Board makes from the literal text of federal regulations in adopting identical-in-substance rules. It is followed by substantive discussions topically arranged of the substantive amendments and actions involved in this proceeding. The first substantive discussion addresses the issues raised by the Agency in PC1. A second substantive discussion considers irregularities in the text of the rules that the Board has noticed over the last year or so. These are followed by a series of three substantive discussions of the federally derived amendments involved in this consolidated docket. This series is organized by federal subject matter, appearing in chronological order of the relevant *Federal Register* notices involved.

General Revisions and Deviations from the Federal Text

In incorporating the federal rules into the Illinois system, some deviation from the federal text is unavoidable. This deviation arises primarily through differences between the federal and state regulatory structure and systems. Some deviation also arises through errors in and problems with the federal text itself. 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.

In addition to the amendments derived from federal amendments, the Board often finds it necessary to alter 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 updates the citations to the *Code of Federal Regulations* to the most recent version available. As discussed above, the most recent versions of the *Code of Federal Regulations* available to the Board are the January 1, 2006 edition for NRC regulations (Title 10), the July 1, 2005 edition for Coast Guard and USEPA regulations (Titles 33 and 40, respectively), and the October 1, 2005 edition for USDOT regulations (Title 49). Thus, the Board has updated all citations to Title 10 to the 2006 edition of the *Code of Federal Regulations* and citations to Titles 33, 40, and 49 to the 2005 edition, adding references to later amendments using their appropriate *Federal Register* citation, where necessary.

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. We 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 it 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. Table A sets forth the miscellaneous deviations from the federal text, and Table B itemizes the corrections to the pre-amended base text of the rules in detail. Table A begins on page 40 of this opinion, and Table B begins on page 127. There is no further discussion of most of the deviations and revisions elsewhere in this opinion.

Discussion of the Issues Raised by the Agency in PC 1 and of the Actions Taken in Response in This Docket

On April 5, 2007, the Agency submitted a letter to Board staff relating to the prior consolidated update docket, UIC Update, USEPA Amendments (January 1, 2005 through June 30, 2005, R06-16, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-17, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006) (consolidated). The letter raised seven areas of concern over the amendments adopted in that prior RCRA update. Thus, the Board has entered the letter into the consolidated docket R06-16/R06-17/R06-18 as PC 3 and into the present consolidated R07-5/R07-14 docket as PC 1, to give consideration to the issues that the letter raises.

After review of the Agency letter, the Board has concluded that limited revisions are necessary to the rules. While the letter raises the same issues that the Agency raised by its June 30, 2006 comments in consolidated update docket R06-16/R06-17/R06-18 (PC 1), examination of the issues reveals corrections that the Board had intended to make, but inadvertently did not do so when adopting those amendments. Further, the letter indicates an additional reason to make an Agency-suggested change that the Agency did not present to the Board at that time.

The following discussion is limited to consideration of the additional changes prompted by the Agency's April 10, 2007 letter. This discussion extends that which appears at pages 14 through 51 in the Board's November 16, 2006 opinion in consolidated update docket R06-16/R06-17/R06-18. The discussion cites the location in the November 16, 2006 opinion in that docket of the initial discussion of the issues raised by the Agency's comments.

Incomplete Cross-References in Section 703.350(c)(1)

The Agency notes that the Board neglected to add complete cross-references in Section 703.350(c)(1) to complete those included in corresponding 40 C.F.R. 270.260(a). The Board has added references to Sections 702.104 and 703.110, to correspond with the federal citation to 40 C.F.R. 270.6, and Section 703.160, to correspond with the citation to 40 C.F.R. 270.1. The entry in the table on page 288 of the Board's November 16, 2007 opinion in consolidated docket R06-16/R06-17/R06-18 indicates that the Board had intended to add references to Sections 703.110 and 702.160 in that docket in response to the Agency comments, but inadvertently neglected to do so. The Board now corrects that oversight.

Annual Reporting Required

In the prior consolidated update docket R06-16/R06-17/R06-18, the Agency requested that the Board retain the existing annual facility activity reporting frequency in the Illinois regulations, even though USEPA used a biennial reporting frequency of facility activities in its rules. The Board determined that it could not retain an annual reporting frequency consistent with the identical-in-substance mandate of Sections 7.2(b) and 22.4(a) of the Act (415 ILCS 5/7.2(b) and 22.4(a) (2006)) after USEPA has changed to a biennial reporting requirement. *See UIC Update, USEPA Amendments (January 1, 2005 through June 30, 2005, R06-16, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-17, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006) (consolidated) at pp. 35-36; see also id. at p. 306 (table of requested revisions not made by the Board).*

Rather than follow the Agency suggestion for an annual reporting requirement at Section 727.170(f)(1), the Board followed the biennial reporting frequency of corresponding 40 C.F.R. 267.75(a). The Board concluded that discussion as follows:

The Board must reopen Part 724 in the upcoming update docket, R07-5.
* * * The Board will include a proposal to amend 35 Ill. Adm. Code 724.175 to provide for biennial reporting in the R07-5 proposal. That will allow public comment on any such amendment before the Board would adopt it.

In the present docket, however, the Board amends Section 703.246(c) to remove the references to the frequency of reporting. The Board changes "annual report" to "facility activities report," which is what the report is called in Section 724.175. The Board will also remove the prepositional phrase "during the previous calendar year." These amendments will accommodate any future amendment of Section 724.175 to biennial reporting, or to continued annual

reporting if no such amendment is completed. * * * UIC Update, USEPA Amendments (January 1, 2005 through June 30, 2005, R06-16, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-17, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006) (consolidated) at p. 36

In the April 10, 2007 Agency letter (PC 1), the Agency set forth additional information that has caused the Board to reconsider retaining an annual facility activity reporting frequency in the Illinois regulations. The Agency letter added the following to its earlier arguments:

Section 20.1 of the Environmental Protection Act (415 ILCS 5/20.1) requires the Agency to compile and make available an annual report regarding certain hazardous waste operations. If we are only receiving biennial reports from facilities, how to we effectively put together our annual reports? Additionally, the financial assurance requirements in Section 727.240(c) require annual updates to account for inflation. Again, how would the Agency check compliance with that requirement if a site only provides closure cost estimates biennially?

The Board agrees, based on the additional information set forth by the Agency, that Sections 724.175 and 727.170(f) must be amended to require annual monitoring. The General Assembly has mandated that the Agency must annually compile a report of hazardous waste activities in Illinois and make that report available to the public, as follows:

§ 20.1. (a) The Agency shall conduct a survey and prepare and publish a list of sites in the State where hazardous waste has been deposited, treated, or stored.

(b) The Agency shall monitor hazardous waste processing, use, handling, storage, and disposal practices in the State, and shall determine existing and expected rates of production of hazardous waste.

(c) The Agency shall compile and make available to the public an annual report identifying the types and quantities of hazardous waste generated, stored, treated or disposed of within this State and containing the other information required to be collected under this Section. 415 ILCS 5/20.1 (2006).

The Agency cannot meaningfully fulfill this mandate without the annual submission of the required information by regulated facilities. By this provision, the General Assembly manifested its intent that Illinois facilities report on an annual basis. Incorporation of a biennial reporting frequency into the Illinois regulations that is identical-in-substance with that set forth in 40 C.F.R. 264.75 and 267.75 would be thoroughly inconsistent with the annual reporting frequency contemplated by Section 20.1 of the Act (415 ILCS 5/20.1 (2006)).

Incorporation of an annual reporting frequency is consistent with federal law. Under Sections 3006 and 3009 of RCRA, the State may maintain its own hazardous waste regulations that are “substantially equivalent to” and not “less stringent than” the corresponding federal

rules. 42 U.S.C. §§ 6926(b)(1) & (e) and 6929 (2006). Section 3009 of RCRA provides, “Nothing in this chapter shall be construed to prohibit any State or political subdivision thereof from imposing any requirements, including those for site selection, which are more than those by such regulations.” 42 U.S.C. § 6929 (2006). Requiring annual submission of facility activity reports is more stringent than the federally required biennial submission, but comports with dictates of the General Assembly.

For the foregoing reasons, the Board has amended Section 727.170(f)(1) to require annual submission of the facility activity reports. Further, the Board has not changed the annual reporting frequency in Section 724.175 to biennial reporting, as discussed at page 36 in the November 16, 2006 opinion in the prior consolidated update docket, R06-16/R06-17/R06-18. No similar revision is required for Section 703.246(c), since the Board removed the reference to the frequency of report in the consolidated R06-16/R06-17/R06-18 docket. This change back to an annual reporting frequency in Section 727.170(f)(1) and the retention of an annual reporting frequency in Section 724.175 are consistent with the Board’s mandates under Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2006)), as well as with the federal RCRA requirements.

The Board made corresponding minor ancillary amendments to Sections 724.175 and 727.170(f)(1). The first is two new Board notes that are appended to Sections 724.175 and 727.170(f)(1) to explain why the Board requires annual reporting, while USEPA requires biennial reporting. The second is a shift in phrasing based on the prior amendments to Section 703.246(c). The previously used term, “annual reporting,” describes the frequency of report submission, but it does not describe the nature of the report itself. In consolidated docket R06-16/R06-17/R06-18, the Board changed the term “annual report” to “facility activities report” when removing the references to the submission frequency. The phrase “facility activities report” is more descriptive of the report, and the Board has chosen to extend its use to Sections 724.175 and 727.170(f)(1).

Agency-Suggested Revisions Still Declined by the Board

The Board declines to further amend the text of the rules in response to any of the other suggestions made by the Agency in its April 10, 2007 letter (PC 1). The rest of the Agency suggestions add nothing to what the Board has already considered in the November 16, 2006 opinion in consolidated update docket, R06-16/R06-17/R06-18 based on the Agency’s June 30, 2007 comments (PC 1 in that docket).

Having fully addressed the Agency concerns in consolidated docket R06-16/R06-17/R06-18, the Board feels no need to discuss those concerns again. The Board directs the Agency’s attention to the following segments of the November 16, 2006 opinion in UIC Update, USEPA Amendments (January 1, 2005 through June 30, 2005, R06-16, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-17, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006) (consolidated):

Provision of Agency Concern	Location in the Opinion Where Discussed
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Section 702.120(b)(3)	Pages 22-26 & page 320 (in table)
Section 705.302(a)(4)(I)	Page 323 (in table)
Section 727.100(b)	Pages 33-35
Section 727.900(e)	Pages 39-45 & 337 (in table)
Section 727.900(h)(2)	Pages 45-50 & 337 (in table)
Part 727 structure generally	Page 331 (in table)

The Board will add only one point to the discussion given these issues in the prior consolidated update docket R06-16/R06-17/R06-18. The Board adds this in clarification of the point that the Board attempted to make when declining to make some of the Agency-requested changes in the prior update docket. The Board cannot correct the content of federal regulations using the identical-in-substance procedure without establishing two things: (1) there must exist some clear indication that USEPA erred in establishing the provision at issue or in allowing the provision to continue in the face of intervening amendments that shift its function; and (2) there must exist some clear indication of an alternative USEPA intent that the Board can use to correct the provision. The Board may, using the identical-in-substance procedure, retain deviations from the federal requirements based on existing State law, as was done in this docket to retain the annual reporting frequency for facility activities reports. *See* above discussion at pages 8 through 11 of this opinion. If the Board cannot use the identical-in-substance procedure to correct the federally derived provision, the general rulemaking authority of Sections 27 and 28 of the Act (415 ILCS 5/27 and 28 (2006)) may allow desired amendments that are “substantially equivalent to” and not “less stringent than” the corresponding federal rules. *See id.*

The Board requests comment on the revisions made to the existing rules based on the April 10, 2007 Agency letter (PC 1). The Board has added the pertinent segments of Sections 702.120, 727.100, and 727.900 to the present proceeding. This will allow corrections should any additional information justify the Board action.

Discussion of the Correction of Irregularities in the Base Text of the Rules

During the course of incorporating the federal April 4, 2006 amendments into the Illinois regulations, the Board noted irregularities in segments of the base text. The text of certain Illinois provisions does not agree with the corresponding federal provisions. Affected are the texts of Parts 724, 725, 728, and 738. After researching the source of the irregularities, the Board discovered errors made when adding federal amendments in two prior identical-in-substance updates completed in 1996 and 1997. The Board also discovered an inconsistency in the text based on a 2006 identical-in-substance update.

The Board has proposed amendments to the text of Parts 724, 725, and 728 that will correct the irregularities in the text. The corrections to Part 738, however, will require correction in a future docket when that part is open for federal amendments. *See* 22 Ill. Reg. 8038 (May 8, 1998) (Notice of Refusal to Modify or Withdraw Rule to Meet the Objection of JCAR, explaining that the Board would not in the future modify rules pursuant to Sections 7.2 and 22.4(a) of the Act (415 ILCS 5/7.2 and 22.4(a) (2006)) unless the part is open to amend the rules to conform with USEPA amendments).

The following brief discussions outline the sources and extents of the errors discovered. The discussions describe the Board actions necessary to remove the irregularities from the text so that it more closely conforms to the federal requirements.

Correction of Errors Made September 23, 1993 (in Docket R93-04)

The Board discovered errors in amendments adopted September 23, 1993. See RCRA Update, USEPA Regulations (July 1, 1992 through December 31, 1992, R93-4 (Sep. 23, 1993). The Board retained segments of text removed by USEPA, and the Board then reworded a provision in a way that the Board now finds unnecessary. The present amendments correct both.

40 C.F.R. 264.571(b), (b)(1), and (b)(3) (corresponding with 35 Ill. Adm. Code 724.671(b), (b)(1), and (b)(3)): USEPA removed the final sentence of 40 CFR 264.571(b) and paragraphs (b)(1) through (b)(3) on December 24, 1992 (at 57 Fed. Reg. 61492, 61503). The Board failed to remove the corresponding final sentence of corresponding 35 Ill. Adm. Code 724.671(b) and the entire text of subsections (b)(1) through (b)(3)(B)(ii) in RCRA Update, USEPA Regulations (July 1, 1992 through December 31, 1992, R93-4 (Sep. 23, 1993). Those segments of text are removed in this proceeding. The amendments to remove those segments appear as follows (also indicating the amendment to the second to last sentence of subsection (b), which is based on federal amendments of April 8, 2006):

- b) The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of Section 724.673(b) and submit the plan to the Agency no later than two years before the date that all repairs, upgrades and modifications will be complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of Section 724.673. The plan must be reviewed and certified by ~~an independent a qualified, registered professional engineer~~ Professional Engineer. ~~All upgrades, repairs, and modifications must be completed in accordance with the following:~~
 - 1) ~~For existing drip pads of known and documentable age, all upgrades, repairs, and modifications must have been completed by June 6, 1993, or when the drip pad has reached 15 years of age, whichever comes later.~~
 - 2) ~~For existing drip pads for which the age cannot be documented, by June 6, 1999; but, if the age of the facility is greater than seven years, all upgrades, repairs and modifications must be completed by the time the facility reaches 15 years of age or by June 6, 1993, whichever comes later.~~

- ~~3) The owner or operator may petition the Board for an extension of the deadline in subsection (b)(1) or (b)(2) of this Section.~~
- ~~A) The owner or operator must file a petition for a RCRA variance, as specified in 35 Ill. Adm. Code 104.~~
- ~~B) The Board will grant the petition for extension if it finds the following:~~
- ~~i) The drip pad meets all of the requirements of Section 724.673, except those for liners and leak detection systems specified in Section 724.673(b); and~~
- ~~ii) That it will continue to adequately protect human health and the environment.~~

40 C.F.R. 264.1101 (corresponding with 35 Ill. Adm. Code 724.1101): USEPA adopted 40 C.F.R. 264.1101 on August 18, 1992 (at 57 Fed. Reg. 37194, 37266). The Board adopted corresponding 35 Ill. Adm. Code 724.1101 on September 23, 1993 in docket R93-4. The federal language at subsection (c)(3) appeared as follows:

- (3) Throughout the active life or the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, must repair the condition promptly, in accordance with the following procedures.

The Board altered this when adopting the corresponding Illinois provision in docket R93-4 to read as follows:

- 3) Throughout the active life or the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, must repair the condition promptly. In addition, however:

Minor changes occurred in this language since that initial adoption. To revert to the corresponding language of 40 C.F.R. 264.1101(c)(3), the Board is amending Section 724.1101(c)(3) in the present docket as follows:

- 3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of hazardous waste, it must repair the condition promptly. ~~In addition, however the following is required, in~~

accordance with the following procedures:

Correction of Errors Made November 6, 1997 (Consolidated Docket R96-10/R97-3/R97-5)

The Board traced one series of irregularities in the text to amendments adopted on November 6, 1997. *See RCRA Update, USEPA Regulations (July 1, 1995, through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996, through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996, through June 30, 1996), R97-5 (Nov. 6, 1997).* USEPA amended the hazardous waste land disposal restrictions and wastewater pretreatment rules on April 8, 1996, partially in response to an appellate court mandate. 61 Fed. Reg. 15566, 67-68 (Apr. 8, 1996) (in significant part responding to Chemical Waste Management (CWM) v. EPA, 976 F. 2d 2 (D.C. Cir. 1992), cert. denied 113 S. Ct. 1961 (1993)). USEPA amendments to 40 C.F.R. 268 involved federal hazardous waste regulations. Amendments to 40 C.F.R. 148 involved the land disposal restrictions associated with the underground injection control regulations. Those to 40 C.F.R. 403 involved wastewater pretreatment requirements.

Also on April 8, 1996, in a separate notice, USEPA withdrew those segments of the amendments pertaining to the mandate in response to intervening legislation. 61 Fed. Reg. 15660, 61 (Apr. 8, 1996) (responding to the March 26, 1996 enactment of the Land Disposal Program Flexibility Act of 1996, Pub. L. 104-119, 100 Stat. 830). In that second notice, USEPA withdrew amendments to 40 C.F.R. 148.1(b) and (d), 148.3, 148.4, 148.18, 148.20(a) introductory text, 268.1(e), 268.2(k) and (l), 268.3, 268.9(d) through (g), 268.39, 268.40(e), 268.44(a), and 403.5(c) and (d). 61 Fed. Reg. at 15662. In that second notice, USEPA set forth alternative text for 40 C.F.R. 148.18, 268.3(a), 268.39, and 268.40(e). 61 Fed. Reg. at 15662-62.

Subsequently, on June 28, 1996, USEPA corrected both its April 8, 1996 amendments and its April 8, 1996 partial withdrawal of those amendments. 61 Fed. Reg. 33680 (June 28, 1996). USEPA corrected the text of 40 C.F.R. 148.1(d), 268.39, and 268.40(e) in a way that affected text subject to the April 8, 1996 withdrawal of amendments.

The Board included the hazardous waste and underground injection control aspects of the April 8, 1996 federal amendments and partial withdrawal and June 28, 1996 corrections in consolidated docket RCRA Update, USEPA Regulations (July 1, 1995, through December 31, 1995), R96-10, UIC Update, USEPA Regulations (January 1, 1996, through June 30, 1996), R97-3, RCRA Update, USEPA Regulations (January 1, 1996, through June 30, 1996), R97-5 (Nov. 6, 1997). The wastewater pretreatment amendments were included in the separate docket Wastewater Pretreatment Update, USEPA Regulations (January 1, 1996, through June 30, 1996), R97-7 (Apr. 3, 1997). The Board included both sets of the April 8, 1996 amendments in these dockets, including the corrections of June 28, 1996 in consolidated docket R96-10/R97-3/R97-5, but missed a small segment of the withdrawal set forth in a paragraph that preceded the amendments to the text of the federal rules in the second April 8, 1996 *Federal Register* notice. *See* 61 Fed. Reg. at 15662.

Having investigated the extent of the irregularities found in the text of the Illinois rules, the Board has determined the extent of the corrections now necessary. The Board has further learned that no corrections are necessary to many provisions, since amendments based on the second action of April 8, 1996, the corrections of June 28, 1996, or some later federal amendments have already corrected the text. The following paragraphs outline the status of the text for each federal amendment withdrawn on April 8, 1996, as well as the status of each corresponding Illinois provision.

40 C.F.R. 148.1(b) (corresponding with 35 Ill. Adm. Code 738.101(b)): April 8, 1996 amendment withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 738.101(b) is necessary in a future docket as follows:

- b) The requirements of this Part apply to owners or operators of the following Class I injection wells: hazardous waste injection wells that are used to inject hazardous waste.
 - 1) ~~Hazardous waste injection wells that are used to inject hazardous waste; and~~
 - 2) ~~Injection wells that are used to inject wastes that once exhibited a prohibited characteristic of hazardous waste identified in Subpart C of 35 Ill. Adm. Code 721, at the point of generation, and which no longer exhibit the characteristic at the point of injection.~~

40 C.F.R. 148.1(d) (corresponding with 35 Ill. Adm. Code 738.101(d)): April 8, 1996 amendment withdrawn on April 8, 1996, but corrected on June 28, 1996.

The text of corresponding 35 Ill. Adm. Code 738.101(d) accurately reflects the federal text based on the June 28, 1996 corrections, so no further correction is necessary.

40 C.F.R. 148.3 (corresponding with 35 Ill. Adm. Code 738.103): April 8, 1996 amendment withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 738.103 is necessary in a future docket as follows:

- a) ~~The provisions of 35 Ill. Adm. Code 728.103 apply to owners or operators of Class I hazardous waste injection wells used to inject a waste that is hazardous at the point of generation whether or not the waste is hazardous at the point of injection.~~
- b) ~~The owner or operator of a Class I non-hazardous waste injection well that injects waste formerly exhibiting a hazardous characteristic that has been removed by dilution may address underlying hazardous constituents by~~

~~treating the hazardous waste, by obtaining an exemption pursuant to a petition filed under Section 738.120, or by complying with the provisions set forth in 35 Ill. Adm. Code 728.109.~~

40 C.F.R. 148.4 (corresponding with 35 Ill. Adm. Code 738.104): April 8, 1996 amendment withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 738.104 is necessary in a future docket as follows:

The owner or operator of a Class I hazardous ~~or non-hazardous~~ waste injection well may submit an application to USEPA for an extension of the effective date of any applicable prohibition established under Subpart B of this Part pursuant to 40 CFR 268.5. Any extension that is granted by USEPA will be deemed an extension of the effective date of the derivative Board rule.

40 C.F.R. 148.18 (corresponding with 35 Ill. Adm. Code 738.118): Added April 8, 1996, but withdrawn on April 8, 1996. Withdrawal of text on April 8, 1996 set forth replacement text.

The text of corresponding 35 Ill. Adm. Code 738.118 accurately reflects the federal text based on the text set forth in the April 8, 1996 withdrawal, so no further correction is necessary.

40 C.F.R. 148.20(a) introductory text (corresponding with 35 Ill. Adm. Code 738.120 introductory text): April 8, 1996 amendment withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 738.120(a) is necessary in a future docket as follows:

- a) Any person seeking an exemption from a prohibition under Subpart B of this Part for the injection of a restricted hazardous waste, ~~including a hazardous waste that exhibits a characteristic of hazardous waste and which contains underlying hazardous constituents at the point of generation, but which no longer exhibits a characteristic of hazardous waste when injected~~ into a Class I an injection well or wells, must submit a petition for an adjusted standard to the Board, pursuant to Subpart D of 35 Ill. Adm. Code 104, demonstrating that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This demonstration requires a showing of the following:

40 C.F.R. 268.1(e) (corresponding with 35 Ill. Adm. Code 728.101(e)): April 8, 1996 amendment withdrawn on April 8, 1996. Subsequent amendment on May 12, 1997 (at 62 Fed. Reg. 25998) set forth replacement text.

The text of corresponding 35 Ill. Adm. Code 728.101(e) accurately reflects the federal text based on the text set forth in the May 12, 1997 amendments (as included in consolidated docket RCRA Update, USEPA Regulations (July 1, 1996, through December 31, 1996), R97-21, UIC Update, USEPA Regulations (January 1, 1997, through June 30, 1997), R98-3, RCRA Update, USEPA Regulations (January 1, 1997, through June 30, 1997), R98-5 (Aug. 20, 1998)), so no further correction is necessary.

40 C.F.R. 268.2(k) (corresponding with 35 Ill. Adm. Code 728.102 “underlying hazardous constituent”): April 8, 1996 amendment withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 728.102 to remove the definition of “underlying hazardous constituent” is necessary, which is included in the present consolidated docket.

40 C.F.R. 268.2(l) (corresponding with 35 Ill. Adm. Code 728.102 “inorganic metal-bearing waste”): April 8, 1996 amendment withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 728.102 to remove the definition of “inorganic metal-bearing waste” is necessary, which is included in the present consolidated docket.

40 C.F.R. 268.3 (corresponding with 35 Ill. Adm. Code 728.103): Added April 8, 1996, but withdrawn on April 8, 1996. Withdrawal of text on April 8, 1996 set forth replacement text.

The text of corresponding 35 Ill. Adm. Code 728.103 accurately reflects the federal text based on the text set forth in the April 8, 1996 withdrawal, so no further correction is necessary.

40 C.F.R. 268.9(d) (corresponding with 35 Ill. Adm. Code 728.109(d)): April 8, 1996 amendment withdrawn on April 8, 1996. Subsequent amendment on May 12, 1997 (at 62 Fed. Reg. 25998) and May 11, 1999 (at 64 Fed. Reg. 25408) set forth partial replacement text.

Action necessary: The text of corresponding 35 Ill. Adm. Code 728.109(d) partially accurately reflects the federal text based on the text set forth in the May 12, 1997 amendments (as included in consolidated docket RCRA Update, USEPA Regulations (July 1, 1996, through December 31, 1996), R97-21, UIC Update, USEPA Regulations (January 1, 1997, through June 30, 1997), R98-3, RCRA Update, USEPA Regulations (January 1, 1997, through June 30, 1997), R98-5 (Aug. 20, 1998)) and the May 11, 1999 amendments (as included in consolidated docket RCRA Update, USEPA Regulations (January 1, 1999, through June 30, 1999), R00-5 (Dec. 2, 1999)) so only partial correction is necessary, which is included in the present consolidated docket, as follows (at subsection (d)(3)):

d) A waste that exhibits a characteristic of hazardous waste under Subpart C of 35 Ill. Adm. Code 721 is also subject to Section 728.107 requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator's or treater's on-site files ~~and sent to the Agency, except for those facilities described in subsection (f) of this Section.~~ The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes or if the RCRA Subtitle D (municipal solid waste landfill) facility receiving the waste changes. ~~However, the generator or treater need only notify the Agency on an annual basis if such changes occur. Such notification and certification should be sent to the Agency by the end of the year, but no later than Dec. 31.~~

- 1) The notification must include the following information:
 - A) The name and address of the RCRA Subtitle D (municipal solid waste landfill) facility receiving the waste shipment; and
 - B) A description of the waste as initially generated, including the applicable USEPA hazardous waste numbers, the treatability groups, and the underlying hazardous constituents (as defined in Section 728.102(i)), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.
- 2) The certification must be signed by an authorized representative and must state the language found in Section 728.107(b)(4). If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in Section 728.107(b)(4)(D) applies.
- ~~3) For a characteristic waste whose ultimate disposal will be into a Class I nonhazardous waste injection well, and for which compliance with the treatment standards set forth in Section 728.148 and Table U to this Part for underlying hazardous constituents is achieved through pollution prevention that meets the criteria set forth at 35 Ill. Adm. Code 738.101(d), the following information must also be included:~~
 - ~~A) A description of the pollution prevention mechanism and when it was implemented, if already complete;~~

- ~~B) — The mass of each underlying hazardous constituent before pollution prevention;~~
- ~~C) — The mass of each underlying hazardous constituent that must be removed, adjusted to reflect variations in mass due to normal operating conditions; and~~
- ~~D) — The mass reduction of each underlying hazardous constituent that is achieved.~~

40 C.F.R. 268.9(e) (corresponding with 35 Ill. Adm. Code 728.109(e)): Added April 8, 1996, but withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 728.109 to remove subsection (e) is necessary, which is included in the present consolidated docket:

- ~~e) — For a decharacterized waste managed on-site in a wastewater treatment system subject to the federal Clean Water Act (CWA) or zero-dischargers engaged in CWA-equivalent treatment, compliance with the treatment standards set forth in Sections 728.148 and Table D to this Part must be monitored quarterly, unless the treatment is aggressive biological treatment, in which case compliance must be monitored annually. Monitoring results must be kept in on-site files for five years.~~

40 C.F.R. 268.9(f) (corresponding with 35 Ill. Adm. Code 728.101(f)): Added April 8, 1996, but withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 728.109 to remove subsection (f) is necessary, which is included in the present consolidated docket:

- ~~f) — For a decharacterized waste managed on-site in a wastewater treatment system subject to the federal Clean Water Act (CWA) for which all underlying hazardous constituents (as defined in Section 728.102) are addressed by a CWA permit, this compliance must be documented and this documentation must be kept in on-site files.~~

40 C.F.R. 268.9(g) (corresponding with 35 Ill. Adm. Code 728.101(g)): Added April 8, 1996, but withdrawn on April 8, 1996.

Action necessary: Correction of the text of corresponding 35 Ill. Adm. Code 728.109 to remove subsection (g) is necessary, which is included in the present consolidated docket:

- ~~g) — For a characteristic waste whose ultimate disposal will be into a Class-I nonhazardous waste injection well that qualifies for the de minimis exclusion described in Section 728.101, information supporting that qualification must be kept in on-site files.~~

40 C.F.R. 268.39 (corresponding with 35 Ill. Adm. Code 728.139): Added April 8, 1996, but withdrawn on April 8, 1996. Withdrawal of text on April 8, 1996 and correction on June 28, 1996 set forth replacement text.

The text of corresponding 35 Ill. Adm. Code 728.139 accurately reflects the federal text based on the text set forth in the April 8, 1996 withdrawal, so no further correction is necessary.

40 C.F.R. 268.40(e) (corresponding with 35 Ill. Adm. Code 728.140(e)): Added April 8, 1996, but withdrawn on April 8, 1996. Withdrawal of text on April 8, 1996 and amendment on May 26, 1998 (at 63 Fed. Reg. 28556, 641-42) set forth replacement text.

The text of corresponding 35 Ill. Adm. Code 728.140(e) accurately reflects the federal text based on the text set forth in the April 8, 1996 withdrawal, so no further correction is necessary.

40 C.F.R. 268.44(a) (corresponding with 35 Ill. Adm. Code 728.144(a)): Added April 8, 1996, but withdrawn on April 8, 1996. Amendment of the text on December 5, 1997 (at 63 Fed. Reg. 64504, 09) set forth replacement text.

The text of corresponding 35 Ill. Adm. Code 728.144(a) accurately reflects the federal text based on the text set forth in the April 8, 1996 withdrawal, so no further correction is necessary.

40 C.F.R. 403.5(c) and (c)(1) (corresponding with 35 Ill. Adm. Code 310.210 and incorporated by reference in 35 Ill. Adm. Code 310.107): Amended April 8, 1996, but amendments withdrawn on April 8, 1996.

The Board did not amend corresponding 35 Ill. Adm. Code 310.210 in Wastewater Pretreatment Update, USEPA Regulations (January 1, 1996, through June 30, 1996), R97-7 (Apr. 3, 1997). Instead, the Board updated the incorporation of 40 C.F.R. 403 by reference at Section 310.107 to the 1996 version of the *Code of Federal Regulations*. This incorporation included the April 8, 1996 withdrawal of the amendments.

40 C.F.R. 403.5(d) (corresponding with 35 Ill. Adm. Code 310.211 and incorporated by reference in 35 Ill. Adm. Code 310.107): Amended April 8, 1996, but amendments withdrawn on April 8, 1996.

The Board did not amend corresponding 35 Ill. Adm. Code 310.211 in Wastewater Pretreatment Update, USEPA Regulations (January 1, 1996, through June 30, 1996), R97-7 (Apr. 3, 1997). Instead, the Board updated the incorporation of 40 C.F.R. 403 by reference at Section 310.107 to the 1996 version of the *Code of Federal Regulations*. This incorporation included the April 8, 1996 withdrawal of the amendments.

Correction of Inconsistency in Text Adopted on November 16, 2006 (Docket R06-18)

The Board discovered an inconsistency between pre-existing rules and text added on November 16, 2006, when the Board adopted a segment of text based on USEPA's RCRA standardized permit rule. Examination of the text has indicated that the wording of that segment is inconsistent with the wording used in existing similar provisions in the permitted facility and interim status facility requirements. The present amendments alter the wording of the pre-existing provision to agree with the wording recently adopted for the RCRA standardized permit rule.

The RCRA standardized permit rules include containment building requirements at subpart DD of 40 C.F.R. 267. Section 267.1104 is a provision in that subpart which allows a waiver of the generally applicable containment building requirements. It states as follows:

Notwithstanding any other provision of this subpart, the Regional Administrator may waive requirements for secondary containment for a permitted containment building where:

- (a) You demonstrate that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and
- (b) Containment of managed wastes and dust suppression liquids can be assured without a secondary containment system. 40 C.F.R. 267.1104 (2007).

When adding this provision to the Illinois regulations as 35 Ill. Adm. Code 727.900(e), in UIC Update, USEPA Amendments (July 1, 2005 through Dec. 31, 2005), R06-16, RCRA Subtitle D Update, USEPA Amendments (July 1, 2005 through Dec. 31, 2005), R06-17, RCRA Subtitle C Update, USEPA Amendments (July 1, 2005 through Dec. 31, 2005 and March 23, 2006), R06-18 (Nov. 16, 2006) (consolidated), the Board changed the provision to read as follows:

- e) Alternatives to secondary containment requirements. Notwithstanding any other provision of this Section, the Agency must, in writing, allow the use of alternatives to the requirements for secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator has adequately demonstrated both of the following:
 - 1) The only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and
 - 2) The containment of managed wastes and dust suppression liquids can be assured without a secondary containment system. 35 Ill. Adm. Code 727.900(e).

The RCRA regulations include containment building requirements in the permitted facility and interim status facility rules at Subpart DD of 40 C.F.R. 264 and 265. Nearly identical sections 264.1101(e) and 265.1101(e)1 in those subparts allow a waiver of the generally applicable containment building requirements in language that is very similar to that of section 267.1104. Section 264.1101(e) states as follows:

(e) Notwithstanding any other provision of this subpart the Regional Administrator may waive requirements for secondary containment for a permitted containment building where the owner operator demonstrates that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system. 40 C.F.R. 264.1101(e) (2007).

The Board added 35 Ill. Adm. Code 724.1101 and 725.1101 in RCRA Update, USEPA Regulations (July 1, 1992 through December 31, 1992, R93-4 (Sep. 23, 1993), replacing the permissive “may waive” language with language that the Agency cannot impose requirements where the owner or operator has made certain demonstrations. This was to avoid conferring unfettered discretion on the Agency whether to impose requirements or not. *See id.*, opinion, at pp. 31-33. After years with only minor, non-substantive amendment, the identical texts of Sections 724.1101(e) and 725.1101(e) read as follows:

e) Notwithstanding any other provision of this Subpart DD the Agency must not require secondary containment for a permitted containment building where the owner operator demonstrates that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system. 35 Ill. Adm. Code 724.1101(e) and 725.1101(e).

This text in Sections 724.1101(e) and 725.1101(e) differs from that of Section 727.900(e), as recently adopted in consolidated docket R06-16/R06-17/R06-18 in a way that could be construed as substantive. The statement, “the Agency must not require secondary containment . . . where the owner or operator has demonstrates,” in Sections 724.1101(e) and 725.1101(e) is different from that in Section 727.900(e), “the Agency must, in writing, allow the use of alternatives to the requirements for secondary containment . . . where the Agency has determined that the facility owner or operator has adequately demonstrated.” The fact that the corresponding statement in 40 C.F.R. 264.1101(e) and 265.1101(e) is substantially the same as that used in 40 C.F.R.

¹ Section 265.1102(e) differs from section 264.1102(e) only in the addition of a comma after the introductory clause, “notwithstanding . . . this subpart,” and the addition of a conjunction to correct “owner operator” to “owner or operator.”

267.1104,2 indicates that USEPA does not intend a difference in the application of these provisions.

Since it appears that USEPA intends the same meaning in 40 C.F.R. 267.1104 as it does in 40 C.F.R. 264.1101(e) and 265.1101(e), the Board will amend corresponding Sections 724.1101(e) and 725.1101(e) to conform with the text of 727.900(e), as more recently adopted in consolidated docket R06-16/R06-17/R06-18. The Board will amend Sections 724.1101(e) and 725.1101(e) as follows:³

- e) Notwithstanding any other provision of this Subpart DD, the Agency must, in writing, ~~not require~~ allow the use of alternatives to the requirements for secondary containment for a permitted containment building where the Agency has determined that the facility owner or operator ~~demonstrates~~ has adequately demonstrated that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and where containment of managed wastes and liquids can be assured without a secondary containment system. 35 Ill. Adm. Code 724.1101(e) and 725.1101(e).

² As is indicated by the quoted segments above, the principal changes are that USEPA subdivided 40 C.F.R. 267.1104 into subsections and used its more colloquial second-person form, “you demonstrate.” USEPA codified 40 C.F.R. 264.1101(e) and 265.1101(e) as a single subsection and used the more formalized form, “the owner or operator demonstrates.”

³ The only difference between the texts of the two respective provisions are that the amendments will add a comma after the introductory clause in Section 724.1101(e) that already exists in the similar clause in Section 725.1101(e). The Board has included the addition of the conjunction to “owner or operator” in both provisions, which was formerly omitted from the text.

Discussion of the Particular Federal Actions Involved in This Docket

Regulatory Burden Reduction Amendments--Parts 703, 720, 721, 724, 725, 726, and 728⁴

On April 4, 2006 (71 Fed. Reg. 16862), USEPA adopted a series of amendments to various rules as part of a “Burden Reduction Initiative.” USEPA revised 79 separate provisions in the hazardous waste regulations. These revisions are best summarized by quotation of USEPA’s discussion of the amendments. USEPA characterized the several revisions as falling within 10 categories of provisions affected:

To effectively present the large number of regulatory changes we are finalizing, we have divided these changes into ten categories or groups of changes; they are: (1) The amount of time records must be kept; (2) certification by a professional engineer; (3) option to follow the Integrated Contingency Plan Guidance; (4) option to follow the Occupational Safety and Health Administration (OSHA) regulations for emergency training; (5) clarifications and elimination of obsolete regulatory language; (6) elimination of selected recordkeeping and reporting requirements; (7) decreased self-inspection frequency for selected hazardous waste management units; (8) selected changes to the requirements for record retention and submittal of records; (9) changes to the requirements for document submittal; and (10) reduced frequency for report submittals. 71 Fed. Reg. 16862, 16863 (Apr. 4, 2006).

In a more extensive table in the *Federal Register* notice adopting these amendments, USEPA more fully summarizes what amendments it undertook to effect each of these 10 points. See 71 Fed. Reg. 16862, 16864 (Apr. 4, 2006).

Many of the revisions pertain only to facilities in USEPA’s National Environmental Performance Track Program (Program). USEPA described the program and its member facilities in the following new definition added to the hazardous waste regulations:

The National Environmental Performance Track Program is a voluntary, facility based, program for top environmental performers. Facility members must demonstrate a good record of compliance, past success in achieving environmental goals, and commit to future specific quantified environmental

⁴ The specific Sections involved are 703.182, 703.202, 703.212, 703.280, 703.Appendix A, 720.110, 720.131, 721.104, 724.115, 724.116, 724.152, 724.156, 724.173, 724.198, 724.199, 724.200, 724.213, 724.215, 724.220, 724.243, 724.245, 724.247, 724.274, 724.291, 724.292, 724.293, 724.295, 724.296, 724.351, 724.380, 724.414, 724.443, 724.447, 724.654, 724.671, 724.673, 724.674, 724.961, 724.962, 724.1100, 724.1101, 725.115, 725.116, 725.152, 725.156, 725.173, 725.190, 725.193, 725.213, 725.215, 725.220, 725.243, 725.245, 725.247, 725.274, 725.291, 725.292, 725.293, 725.295, 725.296, 725.301, 725.321, 725.323, 725.359, 725.380, 725.401, 725.403, 725.414, 725.541, 725.543, 725.544, 725.961, 725.962, 725.1100, 725.1101, 726.202, 726.203, 728.107, and 728.109.

goals, environmental management systems, local community outreach, and annual reporting of measurable results. 40 C.F.R. 260.10 (2005), as amended at 71 Fed. Reg. 16862, 16902 (Apr. 4, 2006) (new definition of “Performance Track member facility”).

The Board does not review the substance and merits of the underlying federal action in an identical-in-substance proceeding, except to the extent that it may be necessary to do so in order to incorporate the federal provisions into the Illinois regulations. Persons interested in the details of the federal amendments should consult the April 4, 2006 *Federal Register* notice.

The Board incorporated the April 4, 2006 federal amendments without substantive deviation from the corresponding federal text. The deviations from the text of the federal amendments are restricted to those structural and stylistic changes needed to make the text comport with the *Illinois Register* format and the Board’s preferred style and to add clarity and ease of use for the regulated community. The Table A, which begins on page 101 of this opinion, itemizes the various revisions made in the federal text in adapting it into the State regulations.

Only one of these revisions to the federal amendments warrants mention in this discussion. The Board added a Board note to the definition of “Performance Track member facility” in section 720.110. That note is intended to provide sources of information about USEPA’s Environmental Performance Track Program for the benefit of the regulated community. The note refers to the 2000 and 2004 *Federal Register* notices that initiated and later amended the Program, respectively. The note further sets forth the address of the website that USEPA has established relating to the program.

The USEPA website explains the Program and how an entity can become a part of the Program. It discloses that there are presently 14 entities in Illinois that are program members.⁵ While it may be possible to define “Performance Track member facility” by listing these 14 entities, the Board would prefer not to do so. The language of the definition that the Board has chosen more closely follows the corresponding USEPA definition in 40 C.F.R. 260.10. Further, it would be cumbersome to require future amendment of the Illinois definition by rulemaking as USEPA amends its listing of member facilities. But, the Board has “fleshed out” the definition by adding the reference to the Internet site where USEPA maintains its current listing of member facilities.

⁵ These facilities currently are 3M, in Cordova; Akzo Nobel Aerospace Coatings, in Waukegan; Baxter Healthcare, in McGaw Park; Baxter Healthcare, in Round Lake; Bridgestone/Firestone North American Tire LLC, in Bloomington; Chicago White Metal Casting, Inc., in Bensenville; E & T Controls, Inc., in Rochelle; Fujifilm Hunt Chemicals U.S.A., Inc., in Rolling Meadows; International Truck and Engine Corporation, in Melrose Park; Motorola, in Schaumburg; National Manufacturing Company, a division of Stanley Works, in Rock Falls; Nestlé USA - Beverage Division, in Jacksonville; Pfizer, Inc, in White Hall; Rohm and Haas, in Kankakee.

The Board requests public comment on the incorporation of the April 4, 2006 federal Burden Reduction Initiative amendments.

Corrections to Hazardous Waste and Used Oil Regulations--Parts 703, 720, 721, 722, 724, 725, 726, 728, and 739⁶

On July 14, 2006 (71 Fed. Reg. 40254), USEPA adopted a number of corrections to errors in its hazardous waste, universal waste, and used oil rules. USEPA characterized the errors as arising “as a result of printing omissions, typographical errors, misspellings, citations to paragraphs and other references that have been deleted or moved to new locations without correcting the citations, and similar mistakes appearing in numerous final rules.” 71 Fed. Reg. 40254 (July 14, 2006). USEPA further stated, “The application, implementation, and enforcement of the regulations addressed in this rule are not changed in any way.” *Id.* Affected were more than 200 provisions from every part of the federal hazardous waste, universal waste, and used oil regulations. Some provisions had multiple corrections. Nearly all of the federal corrections involved very minor changes in the text, but a small number of the changes affected the text more significantly.

The Board has reviewed each federal correction to determine what action is necessary to amend the Illinois regulations. The Board does not review the substance and merits of the underlying federal action in an identical-in-substance proceeding, except to the extent that it may be necessary to do so in order to incorporate the federal provisions into the Illinois regulations. Persons interested in the details of the federal amendments should consult the July 14, 2006 *Federal Register* notice. Discussion of particular federal actions appears below only where some unusual aspect of that action of the provision involved warrants consideration. Those segments are arranged topically immediately following a general description of the USEPA corrections and the Board responses.

USEPA made 464 individual corrections to a wide variety of federal provisions in 14 parts of the federal rules. The Board has made corrections in this docket in response to 151 of the USEPA corrections to several segments of the rules. No Board action was necessary on 309 of the federal corrections, for a variety of reasons. The principal reason for no Board action at this time is that the Board has already made a great number of the corrections in prior rulemakings. Another frequent reason for no Board action is that there is no counterpart in the

⁶ The specific Sections involved are Appendix A to Part 703, Sections 720.110, 720.111, 720.140, 720.141, 721.121, 721.131, and 721.133, Appendix H to Part 721, Sections 722.153, 722.156, 722.158, 722.181, 722.182, 722.183, 722.184, 722.187, 724.118, 724.197, 724.199, 724.216, 724.240, 724.243, 724.275, 724.293, 724.321, 724.323, 724.352, 724.402, 724.404, 724.414, 724.652, 724.673, 724.1101, and 724.1102, Appendix A to Part 724, Sections 725.119, 725.156, 725.212, 725.240, 725.242, 725.274, 725.293, 725.321, 725.324, 725.355, 725.359, 725.401, 725.403, 725.414, 725.505, 725.543, 725.1100, and 725.1101, Appendix F to Part 725, Sections 726.180, 726.200, 726.202, 726.203, and 726.209, Appendix D to Part 726, Sections 728.104, 728.106, and 728.107, Tables C, F, T, and U to Part 728, and Sections 739.111, 739.143, 739.144, 739.145, 739.152, 739.159, and 739.164.

Illinois rules for a limited number of the federal provisions corrected.

The Board has declined to take action on four of the federal corrections. Three of those federal corrections were clear errors that the Board has chose not to replicate.⁷

The Board has determined that the final two USEPA corrections were significant substantive errors. Despite a stated intent not to change the substance of 40 C.F.R. 261.21(a)(3) and (a)(4) (corresponding with 35 Ill. Adm. Code 721.121(a)(3) and (a)(4)), the Board perceives that the corrections did quite the opposite. Rather than make those two significant changes in the rules, the Board has chosen to depart from the federal text and retain those two segments of the rules as previously corrected by the Board. Retaining the previously corrected text is a significant departure from the corrections adopted by USEPA. Discussion of the Board's deviation from those two federal corrections appears below, on pages 28 through 56 of this opinion.

Finally, the Board has decided to follow the USEPA lead and change the spelling of "exceedence" to "exceedance" in Sections 724.323(b)(1), 724.404(b)(1), 725.324(b)(1), and 725.403(b)(1) to correspond with the corrections to 40 C.F.R. 264.223(b)(1), 264.304(b)(1), 265.224(b)(1), and 265.303(b)(1). The Board had previously opted to follow the traditional form for such Latinate words and use "exceedence" in SDWA Update, USEPA Amendments (July 1, 2000 through December 31, 2000; Radionuclides), R01-20, at pp. 9-10 (Oct. 4, 2001) and in RCRA Subtitle C Update, USEPA Amendments (July 1, 2002 through December 31, 2002), R03-18, at p. 64-65 (June 5, 2003). Making this change is discussed below, at pages 56 through 57 of this opinion.

Table 3, which begins on page 70 of this opinion, briefly outlines the federal corrections of July 14, 2006. It further indicates the corresponding Illinois provision and whether Board action to amend that provision was necessary based on the federal correction. Where action was necessary, the table indicates the nature of the action. Where no action was necessary, the table indicates why no action was necessary. The following discussion is limited to consideration of the significant deviations that the Board has made while incorporating the federal corrections into the Illinois rules.

Corrections to 40 C.F.R. 261.21(a)(3) (corresponding with Section 721.121(a)(3))

The USEPA corrections to the definition of "ignitable waste" at 40 C.F.R. 261.21(a)(3) and (a)(4) present problems. These two paragraphs define what is "ignitable compressed gas" and "oxidizer" for the purposes of defining "ignitable waste." The problems with paragraphs (a)(3) and (a)(4) arise from USEPA incorporating outdated language from the 1980 version of USDOT regulations into these provisions. Resolution of the problems associated with each provision presents unique considerations, so the Board discusses each individually. Nevertheless, some aspects of the following discussion of 40 C.F.R. 261.21(a)(3) are pertinent

⁷ These are one correction to 40 C.F.R. 265.405(a)(1) and two to appendix VI to 40 C.F.R. 264. The nature of each is described in the appropriate entry in the following table.

also to the discussion of paragraph (a)(4) that follows. Thus, the discussion of paragraph (a)(4) will refer back to the appropriate segments of the discussion of paragraph (a)(3).

The federal corrections to 40 C.F.R. 261.21(a)(3) warrant further consideration. This provision defines the characteristic of ignitability. Federal paragraph (a)(3) designates any waste that is an “ignitable compressed gas” as “ignitable waste.” Formerly, these paragraphs defined what is an “ignitable compressed gas” by reference to USDOT regulations, as follows:

§ 261.21 Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

* * *

(3) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation or equivalent test methods approved by the Administrator under §§ 260.20 and 260.21. 40 C.F.R. 261.21(a)(3) (1980); *see* 45 Fed. Reg. 33084, 33121-22 (May 19, 1980).

The 1980 version of 49 C.F.R. 173.300, as relied on by USEPA in 40 C.F.R. 261.21(a)(3), defined the hazard class “flammable compressed gas” based on the use of methods then current. The 1980 version of 49 C.F.R. 173.300 provided in significant part as follows:

§ 173.300 Definitions.

(a) Compressed gas. The term “compressed gas” shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70° F. or, regardless of the pressure at 70° F., having an absolute pressure exceeding 104 p.s.i. at 130° F.; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100° F. as determined by ASTM Test D-323.

(b) Flammable compressed gas. Any compressed gas as defined in paragraph (a) of this section shall be classed as “flammable gas” if any one of the following occurs:

(1) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the Associate Director for [the Office of Hazardous Materials Research].

(2) Using the Bureau of Explosives’ Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of

valve opening.

(3) Using the Bureau of Explosives' Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

(4) Using the Bureau of Explosives' Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives. 49 C.F.R. 173.300 (1980).

Problems have arisen, however, through USEPA's use of this 1980 USDOT definition of the hazard class "flammable compressed gas". USEPA did not merely lift the USDOT definition from 49 C.F.R. 173.300 (1980); the definition has become altered. Part of the alteration occurred in 1980, when USEPA initially adopted 40 C.F.R. 261.300. Further alteration has resulted from the passage of time. Even more alteration occurred in the July 14, 2006 corrections.

The initial USEPA alteration of the USDOT definition dates back to initial adoption of 40 C.F.R. 261.21(a)(3) in 1980. USEPA altered the terms used. Under the 1980 version of the USDOT regulations, the definition at 49 C.F.R. 173.300(b) actually describes the hazardous materials hazard class as "flammable compressed gas" (or "flammable gas"). It does not describe it as "ignitable compressed gas." When USEPA initially adopted 40 C.F.R. 261.21(a)(3), and until the July 14, 2006 corrections, 40 C.F.R. 261.21(a)(3) stated that "ignitable waste" includes "ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation . . ."

The discussion that accompanied adoption of 40 C.F.R. 261.21 reveals that USEPA intended a difference between a USDOT "flammable liquid" and a RCRA "ignitable liquid waste," so it chose to use "ignitable" instead of "flammable" in its definition of the characteristic of ignitability. On the other hand, the discussion also shows that USEPA did not intend a difference between a USDOT "flammable compressed gas" and a RCRA "ignitable compressed gas," despite a similar shift in terms. USEPA stated as follows in this regard:

EPA adopted the Department of Transportation's definitions of ignitable compressed gas and oxidizer and borrowed heavily from the Department of Transportation's definition of non-liquid ignitable because it believed these definitions adequately reflected routine waste management conditions. At the same time, it chose a flashpoint limit for ignitable liquid wastes different from that specified by the Department of Transportation's "flammable" liquid category because it believed that the flashpoint limit specified by the Department of Transportation did not fully reflect conditions likely to be encountered during routine waste management.

* * * * *

EPA does not believe that its ignitable liquids category will create undue confusion in the regulated community. The term “ignitable” was specifically chosen to eliminate confusion between EPA’s “ignitable” liquids category and the Department of Transportation’s “flammable” liquids category. 45 Fed. Reg. 33084, 33108 (May 19, 1980).

USEPA intended “ignitable” to be synonymous with “flammable” when it comes to compressed gas, while it also clearly intended a shift in meaning with the shift in terms from “flammable” to “ignitable” with regard to liquids. Thus, USEPA apparently had two contrary intents by the same shift of phrasing in the same provision.

The continued use of “ignitable” in place of the USDOT term “flammable” is potentially confusing in this context. One could easily infer a shift in meaning. The Board believes that USEPA should have reduced the potential for ambiguity by retaining the original USDOT words “flammable compressed gas” (or the equivalent USDOT term, “flammable gas”) and not using “ignitable compressed gas.” *See* 45 Fed. Reg. 33084, 33122 (May 19, 1980).

A second, more significant problem with 40 C.F.R. 261.21(a)(3) relates to the methods used for determining whether a material belongs within the class. This problem relates to the extreme age of the methods used, and it culminated in 1990, when USDOT removed 49 C.F.R. 173.300 from its regulations. *See* 55 Fed. Reg. 52402 (Dec. 21, 1990). The 1990 amendments changed the methods used for determining whether a material falls within the class, and they replaced the former “flammable compressed gas” hazard class with a new one, “flammable gas.”

The first method used for testing flammability pursuant to the 1980 USDOT rule were those “acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation.” This referenced no distinct methods.

The subsequent methods used for testing flammability under the 1980 rule were definite methods produced by the Bureau of Explosives. The USDOT rule referred to the “Bureau of Explosives’ Flame Projection Apparatus,” the “Bureau of Explosives’ Open Drum Apparatus,” and the “Bureau of Explosives’ Closed Drum Apparatus,” none of which was defined with greater particularity as to author, document number, date, availability, etc. An Internet search has led the Board to an undated document entitled, “Aerosol Flame Projection Tests,” which is available for download from the Association of American Railroads, Bureau of Explosives, Operations and Maintenance Department (from Internet address <http://boe.aar.com/boe-download.htm>). The Board could not determine a date for the Bureau of Explosives method, but the document dates back to at least the 1964 republication of 49 C.F.R. 73.300 (the forerunner to 49 C.F.R. 173.300). *See* 29 Fed. Reg. 18652, 18743 (Dec. 29, 1964) (republication of 49 C.F.R. 173 to embrace a series of earlier amendments).

In 1990 USDOT significantly amended its hazardous materials transportation regulations. USDOT changed the pertinent USDOT rules in two ways. First, USEPA redesignated the hazard class to “flammable gas.” USDOT removed its 49 C.F.R. 173.300(b) definition of

“flammable compressed gas.” USDOT replaced this with a new class of hazardous material called “flammable gas” at 49 C.F.R. 173.115. Second, USDOT updated the methods for determining whether a material is “flammable gas.” The method approved by the “director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation,” as contemplated in the 1980 version of 49 C.F.R. 173.300, changed from the undated Bureau of Explosives methods to a distinct method from the American Society for Testing and Materials (ASTM). The new method was ASTM Method E 681-85, “Standard Test Method for Concentration Limits of Flammability of Chemicals (Vapors and Gases).” *See* 55 Fed. Reg. 52402 (Dec. 21, 1990). This nullified the prior USDOT definition relied upon by USEPA and rendered all the methods used under that rule obsolete.

The effect of the 1990 USDOT revisions on the USEPA hazardous waste rules was significant, although it passed for a long time without apparent notice. The current USDOT rules no longer included 49 C.F.R. 173.300 defining “flammable compressed gas.” Thus, the reference in 40 C.F.R. 261.21(a)(3) to 49 C.F.R. 173.300 for definition of “ignitable compressed gas” became meaningless, unless one inferred that USEPA intended to include a material in the USDOT “flammable gas” hazard class as “ignitable waste.” Supporting this inference would require reading the reference to “49 C.F.R. 173.300” as meaning “49 C.F.R. 173.115” after the 1990 USDOT amendments. This was the inference made by the Board when dealing with this provision in 2006, as described below.

In 2005, the Board dealt with this problem and attempted to correct it in early 2006. The Board amended corresponding 35 Ill. Adm. Code 721.121(a)(3) in UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-6, RCRA Subtitle C Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-7 (Jan. 5, 2006) (consolidated). In Section 721.121(a)(3), the Board changed the former USDOT term “ignitable compressed gas” to the current “flammable gas,” as has been used by USDOT. The Board changed the obsolete reference for the definition from 49 C.F.R. 173.300 to 49 C.F.R. 173.115. The Board then appended brief note to subsection (a)(3) that explained the USDOT amendments, the lack of a USEPA response, and the Board’s deviations from the text of the corresponding USEPA provisions.

USEPA itself corrected the obsolete references on July 14, 2006. Rather than referring to the post-1990 USDOT hazard class for definition of “flammable gas,” in order to maintain *status quo*, USEPA moved in the opposite direction. The intent of USEPA’s approach to the changes in the USDOT rules was to initiate no change through the July 14, 2006 corrections. This is apparent from the discussion of the corrections to paragraph (a)(3):

When EPA first promulgated the ignitability characteristic for hazardous waste identification, the Agency incorporated, by reference, U.S. Department of Transportation (DOT) regulations (contained in Title 49 of the CFR) that defined an ignitable compressed gas and an oxidizer. In 1990, DOT revised and recodified its regulations governing transportation of hazardous materials, including the sections of 49 CFR referenced by 40 CFR 261.21. The referenced DOT regulations were both revised and moved within 49 CFR; as a result, the

hazardous characteristic definitions at 40 CFR 261.21(a)(3) and 261.21(a)(4) now refer to nonexistent or irrelevant sections of the DOT regulations.

Since these original DOT regulations are still required under RCRA, EPA is replacing the obsolete references to the DOT regulations contained in the definitions for an ignitable compressed gas and an oxidizer, 40 CFR 261.21(a)(3) and 261.21(a)(4), respectively, with the actual language from the referenced sections of the DOT regulations that was published in Title 49 of the CFR at the time of the finalization of the RCRA regulations (1980). Because it can be difficult to obtain copies of the CFR from 1980, this revision will make it easier for the regulated community to find and apply the definitions of ignitable compressed gas and oxidizer for the purposes of 261.21. The implementation and enforcement of the ignitability characteristic will not change in any way. The Agency is simply publishing the original definitions to ease the burden on the regulated community. 71 Fed. Reg. 40254-55 (July 14, 2006); *see* 55 Fed. Reg. 52402 (Dec. 21, 1990) (the cited USDOT amendments).

While USEPA clearly stated its intent not to alter the rule by the corrections, the Board does not believe that USEPA's corrections accomplished that purpose. Lifting the definition of "flammable gas" from the 1980 edition of the *Code of Federal Regulations* does not give the term the meaning that USEPA intended when adopting 40 C.F.R. 261.21(a)(3) in 1980. The Board believes that the USEPA assertion, "The implementation and enforcement of the ignitability characteristic will not change in any way" (*see* 71 Fed. Reg. at 40255), is inaccurate.

USEPA's July 14, 2006 corrections created problems. Some of the problems are minor format errors. Others are more significant and relate to the wording and viability of the definition. The Board believes that USEPA's July 14, 2006 corrections to 40 C.F.R. 261.21(a)(3) make the definition of "ignitable waste" more difficult to implement than it was before the corrections. An inferred intent to include post-1990 USDOT "flammable gas" as "ignitable waste" is easier to implement than the borrowing of incorporation of the language of the 1980 version of the USDOT definition into the hazardous waste regulations. Further, USEPA's July 14, 2006 corrections altered the text of the 1980 USDOT definition of "flammable compressed gas" from 49 C.F.R. 173.300(a) and (b) when correcting the 40 C.F.R. 261.21(a)(3) definition of "ignitable compressed gas." This could bolster an inference that USEPA intended something different.

The corrected text of 40 C.F.R. 261.21(a)(3) now reads as follows (with the USEPA changes to the USDOT definition indicated with underlining and overstrike):

§ 261.21 Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

* * * * *

(3) It is an ignitable compressed gas.

~~(a) Compressed gas.~~ (i) The term “compressed gas” shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at ~~70° F.~~ 70 °F or, regardless of the pressure at ~~70° F.~~ 70 °F, having an absolute pressure exceeding 104 p.s.i. at ~~130° F.~~ 130 °F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at ~~100° F.~~ 100 °F as determined by ASTM Test D-323.

~~(b) Flammable compressed gas.~~ (ii) A compressed gas as defined in paragraph (a) of this section shall be classed as “flammable gas” characterized as ignitable if any one of the following occurs:

~~(1) (A)~~ (A) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the ~~Associate Director for [the Office of Hazardous Materials Research]~~ director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation (see Note 2).

~~(2) (B)~~ (B) Using the Bureau of Explosives’ Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening.

~~(3) (C)~~ (C) Using the Bureau of Explosives’ Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

~~(4) (D)~~ (D) Using the Bureau of Explosives’ Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

* * * * *

Note 1: A description of the Bureau of Explosives’ Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT. 40 C.F.R. 261.21(a)(3) (2006), as amended at 71 Fed. Reg. 40254, 40259 (July 14, 2006) compared with 49 C.F.R.

173.300(a) and (b) (1980) (changes indicated with underlining and overstrike).

The minor format errors in this language as easily corrected. The appropriate abbreviated form for temperatures is to place the degree symbol “°” immediately after the numeric temperature, followed by the Fahrenheit abbreviation “F” separated by a space. USEPA placed the space between the numeric temperature and degree symbol, with no space before the Fahrenheit abbreviation. Thus, USEPA should have rendered “70 °F” as “70° F.” The Board has corrected this in the Illinois rule. The appropriate way to abbreviate an absolute pressure in pounds per square inch (p.s.i.) is to use the abbreviation “p.s.i.a.” or “psia.” If the Board adopts amendments based directly on USEPA’s approach to correction of 40 C.F.R. 261.21(a)(3), the Board will make the appropriate of these corrections.

More significant problems could create difficulties with implementation of a rule based on obsolete USDOT text. Those problems may require the Board to deviate from the literal text of 40 C.F.R. 261.21(a)(3), as corrected, in order to implement USEPA’s intent. *See* 415 ILCS 5/7.2(a) (2006). As discussed above, the original shifting from USDOT’s designation “flammable compressed gas” to “ignitable compressed gas” lead to ambiguity in what is intended. The 1990 USDOT abandonment of the original designation served to increase the potential for ambiguity as to what USDOT-designated materials are included in the definition. The obsolescence of the methods used for making the determination makes the definition unworkable. Implementation of USEPA’s apparent original intent of including as “ignitable waste” those materials classed by USDOT as “flammable compressed gas” is difficult if not impossible based on methods and approvals that USDOT has not itself used for nearly 20 years.

The Board has considered how to best deal with the defects in the USEPA incorporation of the obsolete USDOT definitions into the hazardous waste regulations. There are several options, ranging from making minimal changes to the federal text to taking a different approach that might prove easier to implement and enforce in a way intended by USEPA. The Board considers a few of those options in the following segment of this discussion. The Board presently sees three options for dealing with the problem and will discuss each in turn, ranging from the option of making only minimal changes to the July 14, 2006 text to substituting a reference to current USDOT regulations in place of the obsolete language from former 49 C.F.R. 173.300(a) and (b). Such a reference currently exists in 35 Ill. Adm. Code 721.121(a)(3) in the Illinois rules (corresponding with 40 C.F.R. 261.21(a)(3)).

It may be that implementation of the July 14, 2006 corrections requires the Board to take the most dramatic departure from the literal USEPA language by substituting the old USDOT language with the existing reference in Illinois rule to the current USDOT regulations. This is the approach that the Board has presented in this proposal for public comment. It may be that the Board can only partially deal with these problems in the context of an identical-in-substance proceeding. It may be necessary for USEPA to further correct its 40 C.F.R. 261.21 definition of “ignitable waste” before the Board is able to completely deal with the significant problems. The following discussion considers the various options for dealing with the corrections to 40 C.F.R. 261.21(a)(3) in corresponding 35 Ill. Adm. Code 721.121(a)(3).

The 1980 USDOT definition of “flammable compressed gas” is from a context different

from that of the USEPA definition of “ignitable compressed gas.” In the USDOT rules, compressed gas has independent meaning as a class of hazardous material distinct from “flammable compressed gas.” The USDOT definitions of “compressed gas” and “flammable compressed gas” are presented as coordinate definitions, with the definition of “flammable compressed gas” following and partially dependent on the definition of “compressed gas.” *See* 40 C.F.R. 173.300(a) and (b) (1980) (the obsolete USDOT definition relied on by USEPA); *see also* 40 C.F.R. 173.115(a) and (b) (2006) (the current USDOT definition). In the hazardous waste regulations, the term “compressed gas” has no meaning in the hazardous waste regulations; it exists only to support the definition of “ignitable compressed gas.” *See* 40 C.F.R. 261.21(a)(3)(ii) (2006), as amended at 71 Fed. Reg. 40254, 40259 (July 14, 2006).

USEPA could have overcome the differences in context with minor changes in the language, but the changes made by USEPA worked in the opposite way. Paragraph (a)(3)(i) now defines “compressed gas,” and paragraph (a)(3)(ii) states when a compressed gas “is characterized as ignitable.” *See* 40 C.F.R. 261.21(a)(3) (2006), as corrected at 71 Fed. Reg. 40254, 40259 (July 14, 2006). Presenting the USDOT definition of “compressed gas” first as a coordinate provision places more direct emphasis on the subsidiary definition of “compressed gas.” Replacing the USDOT language that clearly defined “flammable compressed gas” with a coordinate statement as to when it is “characterized as ignitable” is a further step away from a direct definition of “ignitable compressed gas.” The USDOT language, as borrowed by USEPA, nowhere directly defines “ignitable compressed gas,” as did the original language of the 1980 USDOT definition of “flammable compressed gas.” Compare 40 C.F.R. 261.21(a)(3)(ii) (2006), as amended at 71 Fed. Reg. 40254, 40259 (July 14, 2006) with 49 C.F.R. 173.300(b) (1980).

Assuming that USEPA had to use the outdated 1980 USDOT definition of “flammable compressed gas,” and that it had to use “ignitable” in place of USDOT’s use of “flammable,” the Board believes that USEPA should have used one of two alternatives to clarify the definition. The first alternative would have been for USEPA to more closely follow the original USDOT language, in order to assure that the language directly defined the term “ignitable compressed gas.” More closely following the 1980 USDOT language would have resulted in a definition similar to the following (indicating the possible revisions to the corrected USEPA definition by underlining and overstrike):

§ 261.21 Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

* * * * *

(3) It is an ignitable compressed gas as defined in paragraph (a)(3)(ii) of this section.

(i) The term “compressed gas” shall designate any material or mixture having in the container ~~an absolute a~~ pressure exceeding 40 p.s.i. absolute (p.s.i.a.) at ~~70°F~~ 70° F or, regardless of the pressure at ~~70°F~~ 70° F, having ~~an absolute a~~ pressure

exceeding 104 p.s.i. at ~~130° F~~ 130° F; or any liquid flammable material having a vapor pressure exceeding 40 ~~p.s.i. absolute p.s.i.a. at 100° F~~ 100° F as determined by ASTM Test D-323.

(ii) A compressed gas, as defined in paragraph (a)(3)(i) of this section, shall be characterized-classed as “ignitable compressed gas” if any one of the following occurs (see Note 2):

(A) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation~~(see Note 2)~~.

(B) Using the Bureau of Explosives’ Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening.

(C) Using the Bureau of Explosives’ Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

(D) Using the Bureau of Explosives’ Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

* * * * *

Note 1: A description of the Bureau of Explosives’ Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: ~~As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed-~~EPA has defined “ignitable compressed gas” based on the U.S. Department of Transportation definition of “flammable compressed gas” set forth in the 1980 publication-version of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT. The U.S. Department of Transportation moved its definition of “flammable gas” to 49 CFR 173.115 and amended it in 1990 (at 55 FR 52634, Dec. 21, 1990). EPA continues to rely on the U.S. Department of Transportation definition from the 1980 version of 49 CFR 173.300 and has adapted the language of that definition into this paragraph (a)(3).

A second, more preferable alternative would have been for USEPA to revise the structure of the definition to more pointedly define “ignitable compressed gas.” Such a revised structure could chiefly have involved changing the relative positions of paragraphs (a)(3)(i) and (a)(3)(ii) and minimally revising the language of both, in order to place the greater emphasis on the definition of “ignitable compressed gas” and clarify the subordinate role of the definition of “compressed gas.” Such a restructured definition could have appeared as follows (indicating the Board-suggested clarifications of the USEPA language by underlining and overstrike):

§ 261.21 Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

* * * * *

(3) It is an ignitable compressed gas as defined in this paragraph.

~~(ii) (i)~~ An “ignitable compressed gas” means a compressed gas, as defined in paragraph (a)(3)(ii) of this section, shall be characterized as ignitable if of which any one of the following ~~occurs~~ is true (see Note 2):

(A) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture, or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation ~~(see Note 2);~~

(B) Using the Bureau of Explosives’ Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening;

(C) Using the Bureau of Explosives’ Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source; or

(D) Using the Bureau of Explosives’ Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

~~(i)(ii)~~ The term “compressed gas” shall designate means any material or mixture having in the container an absolute a pressure exceeding 40 p.s.i. absolute (p.s.i.a.) at 70 °F 70° F or, regardless of the pressure at 70 °F 70° F, having an absolute a pressure exceeding 104 p.s.i.a. at 130 °F 130° F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i.a. absolute at 100 °F 100° F, as determined by ASTM Test Method D-323.

* * * * *

Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: ~~As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed~~ EPA has defined "ignitable compressed gas" based on the U.S. Department of Transportation definition of "flammable compressed gas" set forth in the 1980 ~~publication~~ version of 49 CFR 173.300 ~~for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005.~~ OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT. The U.S. Department of Transportation moved its definition of "flammable gas" to 49 CFR 173.115 and amended it in 1990 (at 55 FR 52634, Dec. 21, 1990). EPA continues to rely on the U.S. Department of Transportation definition from the 1980 version of 49 CFR 173.300 and has adapted the language of that definition into this paragraph (a)(3).

While either of these two alternatives would have added clarity to the definition of ignitable waste, the Board does not find either alternative very appealing. The use of the old, borrowed USDOT definition of "flammable compressed gas" presents other, more significant problems relate to the methods for testing flammability or ignitability. Neither of the two options above deals with the most significant problems with the text.

The problems arising through the methods used for testing whether a material is ignitable are the most significant. In 40 C.F.R. 261.21(a)(3)(ii)(A) (corresponding with 35 Ill. Adm. Code 721.121(a)(3)(A)(i)), the testing uses a procedure "acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation." This references no distinct methods. The Administrative Procedure Act requires reference to an existing document. *See* 5 ILCS 100/5-75 (2006). The Board cannot recite nothing as a method for determination, and the Board cannot incorporate nothing as a method by reference.

In 40 C.F.R. 261.21(a)(3)(ii)(B) through (a)(3)(ii)(D) (corresponding with 35 Ill. Adm. Code 721.121(a)(3)(A)(ii) through (a)(3)(A)(iv)), there is a similar problem. The federal rule refers to the "Bureau of Explosives' Flame Projection Apparatus," the "Bureau of Explosives' Open Drum Apparatus," and the "Bureau of Explosives' Closed Drum Apparatus," none of which is defined. An Internet search has led the Board to an undated document entitled, "Aerosol Flame Projection Tests," which is available for download from the Association of American Railroads, Bureau of Explosives, Operations and Maintenance Department (from Internet address <http://boe.aar.com/boe-download.htm>). The Board could not determine a date for the reference, but the document dates back to at least the 1964 republication of 49 C.F.R. 73.300 (the forerunner to 49 C.F.R. 173.300). *See* 29 Fed. Reg. 18652, 18743 (Dec. 29, 1964) (republication of 49 C.F.R. 173 to embrace a series of earlier amendments). The Board cannot

incorporate the old Bureau of Explosives method by reference, since the Administrative Procedure Act requires use of a dated document for incorporation by reference. *See* 5 ILCS 100/5-75 (2006).

The Board cannot incorporate the methods recited in corrected 40 C.F.R. 261.21(a)(3) by reference. *See* 5 ILCS 100/5-75 (2006). The Board cannot recite nothing as a method for determination or incorporate an unidentified or undated document as a method by reference. The Administrative Procedure Act requires reference to an existing, dated document. Thus, the Board cannot incorporate the unidentified methods approved by USDOT or the old identified, undated Bureau of Explosives methods by reference, since the Administrative Procedure Act (APA) requires use of a dated document for incorporation by reference. *See* 5 ILCS 100/5-75 (2006).

One option for resolving these issues would be for the Board to simply incorporate 40 C.F.R. 261.21(a)(3) by reference. The Board could amend corresponding 35 Ill. Adm. Code 721.121(a)(3) to read as follows:

§ 261.21 Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

* * *

(3) It is an “ignitable compressed gas” as defined in 40 CFR 261.21(a)(3), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

This solution, however, has only a superficial appeal. While it is a legitimate incorporation by reference under the APA, it does not resolve the issues and provide methods for determining what materials are “ignitable compressed gas.”

Another possible solution exists for the Board to overcome the problems with incorporation of the undated Bureau of Explosives methods by reference. This would involve setting forth the verbatim text of the Bureau of Explosives methods in an appendix to 35 Ill. Adm. Code 721. For the sake of public comment, the Board has reproduced the verbatim text of the Bureau of Explosives document that embodies the methods. The reference is not so freely available as to allow the Board to cite it with any confidence that interested persons can readily locate its text.. If public comments justify the Board doing so, the Board may add the text of those methods as an appendix to part 721. Rather than include in the proposed text of the rules a proposed new appendix to present the text of the Bureau of Explosives methods, the Board duplicates the methods text in this opinion, as follows:

AEROSOL FLAME PROJECTION TESTS

Section 173.300(b) subparagraphs (2), (3), and (4) of Title 49 to the Code of Federal Regulations referenced the Bureau of Explosives’ Flame Projection

Apparatus, Open Drum Apparatus and Closed Drum Apparatus to be used when examining aerosol products.

The following are descriptions of the equipment and testing procedures to be used when conducting the tests. Any further questions relating to this testing should be addressed to the Director at the above address.

FLAME PROJECTION TEST

Equipment - The test equipment consists of a base four inches wide and two feet long. A thirty inch rule (with inches marked) is supported horizontally on the side of the base and about six inches above it. A plumber's candle of such height that the top third of the flame is at the height of the horizontal rule is placed at the zero point in the base.

Procedure - The test is conducted in a draft-free area that can be ventilated and the atmosphere cleared between each test. The self-pressurized container is placed at a distance of six inches from the ignition source and the spray jetted into the top third of the flame with valve opened fully for periods of 15-20 seconds. The length of the flame projection from the candle position is read on the horizontal scale. Three or more readings are taken on each sample and average is taken as the result. Samples are also tested with valve in partially open positions to test for "burning back" to valve.

DRUM TESTS

Equipment - The equipment consists of a 55-gallon open-headed steel drum or similar container which is placed on its side and fitted with a hinged cover over the open end that will open at a pressure of 5 p.s.i. The closed or solid end is equipped with one shuttered opening at the top. This is for the introduction of the spray. The opening is approximately two inches from the edge of drum head and is two inches in diameter. There is a safety glass or plastic window six inches square in the center of the solid end. A lighted plumber's candle is placed inside the drum on the lower side and midway between the ends.

Procedure - The test is conducted in the open and when temperature is between 60° F and 80° F.

OPEN DRUM TESTS

The test is conducted with hinged end in a completely open position and with the shutter closed. The spray from the dispenser, with opened fully, is directed in the upper half of the open end and above the ignition source for one minute. Any significant propagation of flame through the vapor-air mixture away from the ignition source shall be considered a positive result -- but -- any minor and unsustained burning in the immediate area of the ignition source shall not be

considered a positive result.

CLOSED DRUM TESTS

The test is conducted with hinged cover dropped into position to rest freely against the end and to close the open end of the drum to make a reasonably secure but not necessarily a completely air-tight seal. The shutter is opened and the spray is jetted into the drum through this shutter with valve fully opened for one minute. After clearing the atmosphere in the drum, the jetting is repeated similarly three times. Any explosion or rapid burning of the vapor-air mixture sufficient to cause the hinged cover to move is considered a positive result. “Aerosol Flame Projection Tests,” Association of American Railroads, Operations and Maintenance Department, Casualty Prevention Division, Bureau of Explosives (undated method downloaded from <http://>

The Board would prefer not to reproduce this text as an appendix to the Illinois rules. Repeating the text would not resolve a fundamental problem with the age of the long-outmoded method and the obsolete status of the USDOT definition of “flammable compressed gas.” Further, it would not resolve the issues relating to the unidentified methods that were approved by USDOT. The Board must look elsewhere to find those methods.

In 1990, USDOT changed “flammable compressed gas” to “flammable gas,” and it changed the Bureau of Explosives methods to American Society for Testing and Materials (ASTM) Method E 681-85, “Standard Test Method for Concentration Limits of Flammability of Chemicals (Vapors and Gases).” Thus, in two regards, what USEPA intended as one aspect “ignitable waste” shifted. What was once defined under USDOT regulations as “flammable compressed gas” became known as “flammable gas,” and the method used to determine flammability was updated by USDOT. The method approved by the “director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation,” as contemplated in the 1980 version of 49 C.F.R. 173.300 and echoed in the newly corrected USEPA definition at 40 C.F.R. 261.21(a)(3)(ii)(A), changed from an obsolete, undated method to a distinct ASTM method. Recitation of obsolete Bureau of Explosives methods is internally inconsistent 17 years after USDOT abandoned use of that method.

Since the 1990 USDOT amendments, the definition of “flammable gas” has read as follows:

§ 173.115 Class 2, Divisions 2.1, 2.2, and 2.3—Definitions.

(a) *Division 2.1 (Flammable gas)*. For the purpose of this subchapter, a *flammable gas* (Division 2.1) means any material which is a gas at 20 °C (68 °F) or less and 101.3 kPa (14.7 psia) of pressure (a material which has a boiling point of 20 °C (68 °F) or less at 101.3 kPa (14.7 psia)) which—

(1) Is ignitable at 101.3 kPa (14.7 psia) when in a mixture of 13 percent or less by volume with air; or

(2) Has a flammable range at 101.3 kPa (14.7 psia) with air of at least 12 percent regardless of the lower limit. Except for aerosols, the limits specified in paragraphs (a)(1) and (a)(2) of this section shall be determined at 101.3 kPa (14.7 psia) of pressure and a temperature of 20 °C (68 °F) in accordance with the ASTM E681–85, Standard Test Method for Concentration Limits of Flammability of Chemicals or other equivalent method approved by the Associate Administrator. The flammability of aerosols is determined by the tests specified in § 173.115 (k) of this section. 49 C.F.R. 173.115(a) (2006).

USDOT stated that its 1990 shift from the 1980 49 C.F.R. 173.300 definition of “flammable compressed gas” to the newer 49 C.F.R. 173.115 definition of “flammable gas” did not intend to change the meaning or scope of the test for flammability. USDOT stated as follows:

Paragraph (a) defines Division 2.1 (flammable gasses) as: (1) A gas under ambient conditions (i.e., 101.3 kPa (14.7 psia) and 20 °F (68 °F)) [sic], and (2) flammable. The flammability criteria referring to flammability limits come from existing regulations (§ 173.300(b)(1)). The test methods listed in paragraphs (b)(2), (b)(3), and (b)(4) of § 173.300 have been replaced by ASTM E681-85 Standard Test Method for Limits of Flammability of Chemicals. 55 Fed. Reg. 52402, 53433 (Dec. 21, 1990).

The test methods formerly listed in 49 C.F.R. 173.300(b)(2), (b)(3), and (b)(4) that USDOT replaced with an ASTM method were the obsolete Bureau of Explosives methods discussed above.

If USDOT did not change the flammability criteria, the question becomes whether USDOT changed any other aspects of the definition. As it turns out, USDOT did change the definition in two small ways that the Board does not believe are significant for the purpose of 40 C.F.R. 261.21(a)(3).

First, the 1990 definition changed “70° F,” which appeared in the 1980 definition, to “20 °C (68 °F) [sic].” This is a shift from approximate standard room temperature in Fahrenheit to approximate standard room temperature in Celsius: a change of 2° F. The Board does not believe that this is a difference, as one would be hard-put to find a material that is a gas at 70° F that is not also a gas at 68° F.

Second, USDOT removed the requirement that the material be “compressed gas” to be designated “flammable gas.” This is the real difference between a “flammable compressed gas” under the 1980 definition in 49 C.F.R. 173.300(b) and a “flammable gas” under the current USDOT definition in 49 C.F.R. 173.115(a) is the “compressed” aspect of the gas. The 1980 USDOT hazard class “flammable compressed gas” required that the material have a pressure in the container of 40 p.s.i.a. at 70° F or 104 p.s.i.a. at 130° F, or a vapor pressure of 40 p.s.i.a. at 100° F if it is a liquid flammable material. The USDOT hazard class “flammable gas” in use since 1990 does not require pressures elevated above ambient. The Board questions, however,

whether even this is a distinction with a difference. The universe of containerized gas or high-vapor pressure liquid materials that are a gas at standard room temperature and pressure (101.3 kPa at 20° C) and which do not have a pressure in the container that would fulfill the pressure requirements of the 1980 USDOT definition is likely small. Moreover, dropping the pressure requirement of the 1980 definition in favor of standard room temperature and pressure as used in the 1990 definition would include, rather than exclude that small universe of materials from the definition of “ignitable waste,” as defined in 40 C.F.R. 261.21(a)(3).

In summary, the Board believes that 40 C.F.R. 261.21(a)(3) is meaningless as corrected by USEPA on July 14, 2006. The use of the obsolete USDOT designation “flammable compressed gas” from the 1980 version of 49 C.F.R. 173.300(b) and continued reliance on obsolete Bureau of Explosives methods for sampling and testing gives rise to a meaningless provision. USEPA originally intended to include materials in the USDOT hazard class as ignitable waste. The USDOT re-designated the hazard class in 1990 to “flammable gas” in 49 C.F.R. 173.115(a), but USEPA did not respond to that shift for several years. In the time that passed since 1980, the former USDOT hazard class became meaningless. Reviving that obsolete USDOT hazard class, as now contemplated by USEPA, is futile, as the Bureau of Explosives methods have become so grossly out of date that there is no longer any reference to them in the USDOT regulations. *See* 49 C.F.R. 173 (2007). USEPA should instead have changed 40 C.F.R. 261.21(a)(3) to include the current USDOT hazard class “flammable gas,” and it should have referred to 49 C.F.R. 173.115(a) for definition of that term.

Since USEPA did not, the Board is then confronted with several options. The Board outlines those options as follows:

1. The Board could simply repeat the 1980 USDOT definition of “flammable compressed gas,” re-designated as “ignitable compressed gas,” as set forth by USEPA in its July 14, 2006 corrections, with or without minor revisions to enhance its clarity and make it follow the original USDOT definition more closely.
2. The Board could repeat the 1980 USDOT definition of “flammable compressed gas,” re-designated as “ignitable compressed gas,” restructuring how USEPA presented it in its July 14, 2006 corrections, in order to enhance its clarity.
3. The Board could repeat the 1980 USDOT definition of “flammable compressed gas,” re-designated as “ignitable compressed gas,” restructuring how USEPA presented it in its July 14, 2006 corrections, in order to enhance its clarity, and substituting ASTM Method E 681 for the obsolete Bureau of Explosives methods.
4. The Board could replace “ignitable compressed gas,” derived from the old USDOT rule and dependent on obsolete and meaningless sampling and testing methods, as included by USEPA in its July 14, 2006 corrections, with “flammable gas,” as defined by the current USDOT regulation and determined using ASTM Method E 681.

The Board prefers the final option in this list. Although it embodies the greatest departure from the literal text of 40 C.F.R. 261.21(a)(3), as corrected, it would involve the least amendment to corresponding 35 Ill. Adm. Code 721.121(a)(3) as it presently exists. As discussed above, the Board corrected the text of 35 Ill. Adm. Code 721.121(a)(3), in the consolidated docket UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-6, RCRA Subtitle C Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-7, 35 Ill. Adm. Code 721.121(a)(3) to incorporate the current USDOT definition of “flammable gas.” While a change in the scope of the definition from that of the corresponding corrected USEPA provision at 40 C.F.R. 261.21(a)(3) may result, the Board believes that any change would actually, at most, make the Illinois provision marginally more inclusive. Thus, any change would not render the Illinois rules impermissibly less stringent than corresponding 40 C.F.R. 261.21(a)(3). *See* 42 U.S.C. § 6929 (2005).

Employing the first three options, each based on the corrected USEPA provision, would require more extensive revision to the existing text of 35 Ill. Adm. Code 721.121(a)(3). The third option of using some version of the 1980 USDOT definition of “flammable compressed gas” while substituting ASTM Method E 681 for the Bureau of Explosives methods would require incorporation of that method by reference. The first and second methods would require incorporation of the undated, obsolete Bureau of Explosives methods by reference or including their text in a new appendix to Part 721. The Board would prefer neither of these first two alternatives.

The Board has used this fourth option in this proposal for public comment. The Board has chosen to radically depart from the text from the July 14, 2006 USEPA corrections. The Board has chosen to incorporate the current USDOT definition of “flammable gas” from 49 C.F.R. 173.115(a) into the Illinois regulations at 35 Ill. Adm. Code 721.121(a)(3), rather than some version of the definition of “flammable compressed gas” as it existed in 1980. The Board believes that this approach more closely implements USEPA’s intent to include materials that fall within the USDOT hazard class as ignitable waste.

The Board has further changed the content of USEPA-designated “Note 2” to explain the use of the obsolete USDOT definition of “flammable compressed gas,” noting the location of the current definition of “flammable gas.” The amendments in today’s proposal reflect these revisions.

Corrections to 40 C.F.R. 261.21(a)(4) (corresponding with Section 721.121(a)(4))

Similarly to 40 C.F.R. 261.21(a)(3), 40 C.F.R. 261.21(a)(4) defines one class of materials that exhibit the characteristic of ignitability. Federal paragraph (a)(4) designates any waste that is an “oxidizer” as “ignitable waste.” As for the paragraph (a)(3) definition of “ignitable compressed gas,” additional consideration is necessary for the July 14, 2006 corrections to 40 C.F.R. 261.21(a)(4) definition of “oxidizer.” The federal corrections to this provision also present problems that the Board must resolve.

When USEPA adopted 40 C.F.R. 261.21(a)(4) in 1980, it defined “oxidizer” by reference to the USDOT regulations. 40 C.F.R. 261.21(a)(4) (1980); *see* 45 Fed. Reg. 33084, 33121-22 (May 19, 1980). The 1980 USEPA rule designated an “oxidizer” as “ignitable waste” by reference to the USDOT definition of the term, as indicated in the text of 40 C.F.R. 261.21(a)(4). This former paragraph defined what is an “oxidizer” by reference to USDOT regulations, as follows:

§ 261.21 Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

* * *

(4) It is an oxidizer as defined in 49 CFR 173.151. 40 C.F.R. 261.21(a)(4) (2006).

The USDOT definition relied upon was 49 C.F.R. 173.151 (1980), which defined the “oxidizer” hazard class as follows:

§ 173.151 Oxidizer; definition.

An oxidizer for the purposes of this subchapter is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter. 49 C.F.R. 173.151 (1980).

In 1990, USDOT changed the hazard class designations for “oxidizer” and “organic peroxide.” USDOT moved the definition of “oxidizer” from 49 C.F.R. 173.151 to 49 C.F.R. 173.127(a). Thus, the USEPA citation in 40 C.F.R. 261.21(a)(4) to USDOT definition at 49 C.F.R. 173.151 became meaningless. The following new provision at 49 C.F.R. 173.127(a) defined the “oxidizer” hazard class:

§ 173.127 Class 5, Division 5.1—Definition and assignment of packaging groups.

(a) *Definition.* For the purpose of this subchapter, *oxidizer* (Division 5.1) means a material that may, generally by yielding oxygen, cause or enhance the combustion of other materials.

(1) A solid material is classed as a Division 5.1 material if, when tested in accordance with the UN Manual of Tests and Criteria (IBR, *see* § 171.7 of this subchapter), its mean burning time is less than or equal to the burning time of a 3:7 potassium bromate/cellulose mixture.

(2) A liquid material is classed as a Division 5.1 material if, when tested in accordance with the UN Manual of Tests and Criteria, it spontaneously ignites or its mean time for a pressure rise from 690 kPa to 2070 kPa gauge is less than the time of a 1:1 nitric acid (65 percent)/cellulose mixture. 49 C.F.R. 173.127(a)

(2006).

The Board dealt with the 1990 USDOT amendments that replaced former 49 C.F.R. 173.151 with new 49 C.F.R. 173.127, in UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-6, RCRA Subtitle C Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-7 (Jan. 5, 2006) (consolidated). In Section 721.121(a)(4), the Board changed the obsolete reference for the definition of “oxidizer” from 49 C.F.R. 173.151 to 49 C.F.R. 173.127. The Board further appended a brief note to subsection (a)(4) that explained the USDOT amendments, the lack of a USEPA response, and the Board’s deviations from the text of the corresponding USEPA provisions.

USEPA itself corrected the obsolete reference to the former USDOT definition of “oxidizer” on July 14, 2006. USEPA concurrently described the nature of its corrections to paragraphs (a)(3) and (a)(4) in the preamble to the July 14, 2006 corrections. (A segment of that explanation appears above, on page 32 of this opinion.) USEPA stated that it intended no change in the scope of its rules when it incorporated the text of the 1980 USDOT definition from 49 C.F.R. 173.151 into 40 C.F.R. 261.21(a)(4). *See* 71 Fed. Reg. 40254-55 (July 14, 2006). The Board does not believe that the July 14, 2006 corrections achieved USEPA’s intent.

As it did with 40 C.F.R. 261.21(a)(3) for a definition of “ignitable compressed gas,” USEPA has relied on language from an obsolete 1980 USDOT provision for the corrected definition of “oxidizer” in 40 C.F.R. 261.21(a)(4). USEPA ignored more recent definition of “oxidizer” that has been a part of the USDOT regulations as 49 C.F.R. 173.127 since 1990. USEPA instead chose to use the obsolete 1980 USDOT definition to avoid changing the scope of the definition of “oxidizer” as used in the hazardous waste regulations. The Board has therefore encountered similar problems with the text of 40 C.F.R. 261.21(a)(4) to those encountered with that of 40 C.F.R. 261.21(a)(3).

The initial problem arises through the obsolete USDOT definition that is the core of the USEPA definition. While it states that an oxidizer “is a material that . . . yields oxygen readily to stimulate combustion of organic matter,” and it gives the examples of “chlorate, permanganate, inorganic peroxide, or a nitrate” (49 C.F.R. 173.151 (1980) (cited above)), the definition lacks in definiteness. There are no methods cited for determining how readily the material must yield oxygen, to what extent and under what conditions it must support combustion, and the type of organic matter whose combustion it must support. Contrast this against the current USDOT definition, which cites the methods of a specific document and the threshold criteria for the determination of whether the material is an oxidizer. *See* 49 C.F.R. 173.127(a) (2006) (cited at page 46 above).⁸ This lack of definiteness in the obsolete USDOT

⁸ The newer USDOT Division 5.1 hazard class defines an oxidizer as “a material that may, generally by yielding oxygen, cause or enhance the combustion of other materials.” 49 C.F.R. 173.127(a) (2006). The newer definition directs attention to methods in *UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria* (4th rev. ed., 2003),

definition of “oxidizer” would favor citation instead to the current USDOT definition.⁹

Another serious problem exists in the USEPA definition of “oxidizer” as corrected on July 14, 2006. The 1980 version of the USDOT regulations included a separate definition of “organic peroxide” at 49 C.F.R. 173.151a, which was a similar type of material, but a distinct hazard class. The 1980 USDOT rules defined “organic peroxide” as follows:

§ 173.151a Organic peroxide; definition.

(a) An organic compound containing the bivalent -O-O- structure and which may be considered a derivative or hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

(1) The material meets the definition of an explosive A or explosive B, as described in Subpart C of this part, in which case it must be classed as an explosive,

(2) The material is forbidden to be offered for transportation according to § 172.101 or § 173.21 of this subchapter,

(3) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

(4) According to data on file with the Materials Transportation Bureau, it has been determined that the material does not present a hazard in transportation. 49 C.F.R. 173.151a (1980).

USEPA not only incorporated the 1980 version of the definition of “oxidizer,” but it also included the 1980 definition of “organic peroxide” as part of the definition. The July 14, 2006 USEPA corrections combined the definition of “oxidizer” from former 49 C.F.R. 173.151 with the definition of “organic peroxide” from 49 C.F.R. 173.151a. The corrections changed 40 C.F.R. 261.21(a)(4) to read as follows:

available from the United Nations Economic Commission for Europe (UNECE), Transport Division, for determination of whether a material falls within the definition. *See* 49 C.F.R. 173.7(a)(3) and 173.127(a)(1) and (a)(2) (2006).

⁹ This may have presented less of a problem in the USDOT regulations than it would in the current USEPA hazardous waste regulations because the USDOT regulations included the “Hazardous Materials Table” of 49 C.F.R. 172.101, which set forth the hazard class into which the more common hazardous materials fell. 49 C.F.R. 172.101 (1980); *see also* 49 C.F.R. 172.101 (2006). Even under the original USEPA definition of “oxidizer,” it is likely that the regulated community referred to 49 C.F.R. 173.151(1980) would have relied on the Hazardous Materials Table to determine whether a material was a USDOT oxidizer.

§ 261.21 Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

* * *

(4) It is an oxidizer. An oxidizer for the purpose of this subchapter is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter (see Note 4).

(i) An organic compound containing the bivalent -O-O- structure and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

(A) The material meets the definition of a Class A explosive or a Class B explosive, as defined in § 261.23(a)(8), in which case it must be classed as an explosive,

(B) The material is forbidden to be offered for transportation according to 49 CFR 172.101 and 49 CFR 173.21,

(C) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or

(D) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

* * * * *

Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 4: The DOT regulatory definition of an oxidizer was contained in § 173.151 of 49 CFR, and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer. 40 C.F.R. 261.21(a)(4) (2006), as amended at 71 Fed. Reg. 40254 (July 14, 2006).

Neither the text of former 40 C.F.R. 261.21(a)(3) nor the definition of “oxidizer” in

former 49 C.F.R. 173.151 would have included an “organic peroxide” as an “oxidizer,” so inclusion of a definition for this material in the corrected text of 40 C.F.R. 261.21(a)(3) is not justified if no expansion of the definition of “oxidizer” is intended. In the 1980 USDOT rules drawn on by USEPA, 49 C.F.R. 173.151a was never subsidiary to 49 C.F.R. 173.151. The 1980 version of 49 C.F.R. 173.151 did not include “organic peroxide.” Further, the definition of “oxidizer” has always had the categorical inclusion of “inorganic peroxide.” It has never categorically included either “peroxide” generally or “organic peroxide” categorically. This would implicitly exclude the possibility of categorical inclusion of organic peroxide material. Thus, it would appear that the previous 40 C.F.R. 261.21(a)(4) reference to “oxidizer as defined in 49 CFR 173.151” from the 1980 version of the USEPA rules did not include “organic peroxide.”

Nevertheless, the July 14, 2006 USEPA corrections to 40 C.F.R. 261.21(a)(3) included organic peroxide as an “oxidizer.” Thus, the text that USEPA added to 40 C.F.R. 261.21(a) with the July 14, 2006 corrections and designated as “note 4” actually altered the scope of the definition of “oxidizer.”

The effect of the July 14, 2006 corrections, therefore, was to broaden the definition of “oxidizer” to include “organic peroxide.” This was contrary to USEPA’s stated intent not to change the scope of the existing rule by its July 14, 2006 corrections to paragraph. As quoted more fully above at page 32 of this discussion, USEPA said that no change in scope was intended by the corrections:

Since these original [1980] DOT regulations are still required under RCRA, EPA is replacing the obsolete references to the DOT regulations contained in the definitions for . . . an oxidizer . . . with the actual language from the referenced sections of the DOT regulations that was published in Title 49 of the CFR at the time of the finalization of the RCRA regulations (1980). * * * The implementation and enforcement of the ignitability characteristic will not change in any way. The Agency is simply publishing the original definitions to ease the burden on the regulated community. 71 Fed. Reg. 40254-55 (July 14, 2006); *see* 55 Fed. Reg. 52402 (Dec. 21, 1990) (the cited USDOT amendments).

When lifting the definition of “oxidizer” from the 1980 edition of the *Code of Federal Regulations* USEPA did not give the term “oxidizer” the same meaning it did when it initially adopted 40 C.F.R. 261.21(a)(4) in 1980. The addition of the former USDOT definition of “organic peroxide” to the definition of “oxidizer” has resulted in a major substantive alteration of the rule. USEPA’s assertion in “note 4” appended to 40 C.F.R. 261.21(a) that organic peroxide is a type of oxidizer was not true before USEPA made the assertion. Rather, the addition of the language from the former USDOT definition of “organic peroxide” from 49 C.F.R. 173.151a and the assertion in “note 4” that an organic peroxide is a type of oxidizer have made it true. The additions expanded the definition of “oxidizer” to include organic peroxide. These revisions that included organic peroxide as “oxidizer” are made despite USEPA’s clear statement of its intent not to alter the scope of the rule by the corrections.

Some, but not all, organic peroxides are chemically oxidizers. An organic peroxide could

yield oxygen to support combustion of organic or other materials, as indicated in the 1980 USDOT definition of “oxidizer” that is now codified by USEPA in 40 C.F.R. 261.21(a)(4)(i), but many organic peroxides are so extremely vigorous in doing so that they are far too hazardous to classify as “oxidizers”; those organic peroxides would vigorously engage in self-combustion and are more appropriately considered as “explosive” or “reactive” materials. This is evident from the exclusions now incorporated into the corrected USEPA definition of “oxidizer” in 40 C.F.R. 261.21(a)(4)(i)(A) through (a)(4)(i)(C), which exclude explosive or highly reactive materials from the definition.

Interestingly, this is reflected in both the USEPA and USDOT regulations. The organic peroxides listed by USEPA as hazardous waste in 40 C.F.R. 261 are listed for toxicity and reactivity, not for ignitability. The list of commercial chemical products and chemical intermediates in 40 C.F.R. 261.33(f) includes three organic peroxides: methyl ethyl ketone peroxide (2-butanone peroxide) (waste number U160),¹⁰ α,α -dimethylbenzylhydroperoxide (1-methyl-1-phenylhydroperoxide) (waste number U096), tetramethylthioperoxydicarbonic diamide (thiram) waste number U244). These compounds are listed for toxicity and reactivity, but not for ignitability. Similarly, none of the organic peroxides listed in the USDOT hazardous materials table are listed under the “5.1” hazard class (oxidizer). Instead, they are either listed as “forbidden” or under the “5.2” hazard class (organic peroxide).¹¹ See 49 C.F.R. 172.101 (2006). The same is true of the 1980 version of the USDOT hazardous materials table. The organic peroxides are listed as either “forbidden” or as “organic peroxide.”¹² See 49 C.F.R. 172.101

¹⁰ Methyl ethyl ketone peroxide is the one chemical listed by name in both the USEPA hazardous waste listings and in the USDOT Hazardous Materials Table. It is a listed hazardous waste by virtue of toxicity and reactivity. 40 C.F.R. 261.33(f) (2006). It is marked “forbidden” for transportation by USDOT when it contains more than nine percent oxygen by weight. 49 C.F.R. 172.101 (2006). Thus marked as “forbidden” by USDOT, it would be excluded from the definitions of “organic peroxide” and “oxidizer” under the corrected USEPA definition of “oxidizer.” See 40 C.F.R. 261.21(a)(4)(i)(B).

¹¹ The tables list acetyl acetone peroxide, acetyl benzoyl peroxide, acetyl cyclohexanesulfonyl peroxide, acetyl peroxide, ascaridole, *tert*-butyl hydroperoxide, *tert*-butyl peroxyacetate, *tert*-butyl peroxydicarbonate, *tert*-butyl peroxyisobutyrate, di-*n*-butyl peroxydicarbonate, 2,2-di-(*tert*-butylperoxy) butane, di-(*tert*-butylperoxy) phthalate, 2,2-di-(4,4-di-*tert*-butylperoxycyclohexyl) propane, di-2,4-dichlorobenzoyl peroxide, di-(1-naphthoyl) peroxide, diacetone alcohol peroxides, diacetyl peroxide, dibenzyl peroxydicarbonate, diethyl peroxydicarbonate, 2,5-dimethyl-2,5-dihydroperoxy hexane, dimethylhexane dihydroperoxide, dipropionyl peroxide, ethyl hydroperoxide, hexamethylene triperoxide diamine, isopropylcumyl hydroperoxide, methyl ethyl ketone peroxide, organic peroxide type A, peroxyacetic acid, sodium picryl peroxide, tetramethylene diperoxide. The tables list as in hazard class 5.2: organic peroxide types B-F.

¹² Listing the named chemicals as “forbidden” or “organic peroxide,” depending on the material and chemical concentration, but including a listing for “organic peroxide, n.o.s.” in place of organic peroxide types A through F.

(1980).

It might be possible to argue that the exclusion of the more reactive and less reactive organic peroxides by the exceptions of subsections (a)(4)(i)(A) through (a)(4)(i)(D) leaves only those organic peroxides that would fit within the definition of “oxidizer.” This argument, however, is proven false on the basis of the USEPA and USDOT regulations cited above. USEPA has designated all of the listed organic peroxides as “reactive,” rather than “ignitable.” USDOT has listed all chemically named peroxides as “forbidden.” Thus, the Board has finds no support for the categorical USEPA assertion in new note 4 to 40 C.F.R. 261.21(a) that organic peroxide is a type of oxidizer.

That USDOT did not intend its definition of “organic peroxide” as a subset of the definition of “oxidizer” is further highlighted by the history of the USDOT definition. USDOT adopted its initial definition of “oxidizer” in 1964. That original definition was very similar to the core definition that existed in 1980, with one key difference: the definition used “peroxide” where “inorganic peroxide” later appeared. *Compare* 49 C.F.R. 73.151, as adopted at 29 Fed. Reg. 18652, 18709 (Dec. 29, 1964) *with* 49 C.F.R. 173.151 (1980); *see also* 49 C.F.R. 173.127 (2006).¹³ In 1976, however, USDOT added a separate definition of “organic peroxide,” as a separate hazard class, and changed the definition of “oxidizer” to include only “inorganic peroxide.” *See* 49 C.F.R. 173.151, as amended, and 173.151a, as added, at 41 Fed. Reg. 15971, 16069 (Apr. 15, 1976). That USDOT intended the “organic peroxide” hazard class to be separate from the “oxidizer” hazard class is plain in the brief explanation USDOT gave for these changes:

173.151 and 173.151a These provide a separate classification and definition for an oxidizer and an organic peroxide to recognize different hazard characteristics. 41 Fed. Reg. 15971, 15983 (Apr. 15, 1976).

Thus, there is no support for a conclusion that USDOT intended “organic peroxide” to be “oxidizer” in 1980 when USEPA originally referenced the USDOT definition of “oxidizer” to help define “ignitable waste.” The addition of the language from former 49 C.F.R. 173.151a to that of former 49 C.F.R. 173.151 to broaden the definition of “oxidizer” to categorically include organic peroxides was a material change in the scope of the federal regulations, despite USEPA’s assertion that it intended no such change. USEPA apparently erred by making this inclusion.

A more accurate way for USEPA to have dealt with organic peroxides would have been to omit the definition from former 49 C.F.R. 173.151a when it corrected 40 C.F.R. 261.21(a)(4). USEPA should also have omitted the references to organic peroxide from note 4 appended to 40 C.F.R. 261.21(a). Assuming that USEPA had to add the definition of “organic peroxide” to that of “oxidizer” in 40 C.F.R. 261.21(a)(4) to include some organic peroxides that would otherwise fulfill the definition of “oxidizer,” USEPA should have drafted note 4 in a way that does not

¹³ USDOT redesignated 49 C.F.R. 73.151 as 49 C.F.R. 173.151 at 32 Fed. Reg. 5606 (Apr. 5, 1967).

draw from the obsolete and irrelevant USDOT definition of “organic peroxide.” One such possibility for note 4 follows (with deletions from USEPA’s note 4 indicated as overstruck and additions indicated with underlining):

Note 4: The DOT regulatory definition of an oxidizer was formerly contained in 49 C.F.R. § 173.151 ~~of 49 CFR~~, ~~and the definition of an organic peroxide was contained in paragraph 173.151a.~~ An organic peroxide, which is an organic compound that includes a bivalent -O-O- structural group and which may be considered a derivative of hydrogen peroxide in which one or more of the hydrogen atoms have been replaced by organic radicals, ~~is a type of~~ can be an oxidizer even though the term “inorganic peroxide” is used by way of example in the definition.

By drawing on the obsolete USDOT definition of “organic peroxide,” USEPA has unnecessarily created two additional problems with the definition of “oxidizer.” These arise from the exclusions from the definition of “organic peroxide.” First, the exclusions are designed for transportation of materials, not for determining a threat to human health and the environment. Second, major segments of the exclusions are indefinite in a way that would make them difficult to implement.

Under the exclusions from the subsidiary definition of “organic peroxide” in 40 C.F.R. 261.21(a)(4), as corrected by USEPA, a material is not an organic peroxide if (1) it is an explosive, as described in the USEPA rules (in the provision describing the hazardous waste characteristic of reactivity), which cite to USDOT regulations for making the determination; (2) it is a material that USDOT has designated as “forbidden” from transportation (either by reference to the Hazardous Materials Table or a specific regulatory provision); (3) “it is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide”; or (4) USDOT has determined that the material does not present a hazard in transportation.

The determination that a material is an explosive made using the USDOT regulations presents problems with references to outdated USDOT regulations. The exclusion in 40 C.F.R. 261.21(a)(4)(i)(A) cites to the hazardous waste characteristic for “reactivity,” which in turn refers to USDOT regulations:

§ 261.23 Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has *any* of the following properties:

* * * * *

(8) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53 or a Class B explosive as defined in 49 CFR 173.88. 40 C.F.R. 261.23(a)(8) (2006)

These references are to obsolete USDOT regulations for the substance of the determination.

Former 49 C.F.R. 173.51 forbids transportation of certain explosives unless they were expressly allowed under another provision of the USDOT rules. *See* 49 C.F.R. 173.51 (1980). The current version of 49 C.F.R. 173.51 is reworded to prohibit transportation of explosives unless they are tested, classed, and approved by USDOT. *See* 49 C.F.R. 173.51 (2006). The current counterpart to former 49 C.F.R. 173.51 is 49 C.F.R. 173.54, which sets forth the prohibition against transportation of explosives on terms very similar to those of former 49 C.F.R. 173.51. *Compare* 49 C.F.R. 173.54 (2006) *with* 49 C.F.R. 173.51 (1980).

Former 40 C.F.R. 173.53 defined a “Class A Explosive,” and former 40 C.F.R. 173.88 defined a “Class B Explosive.” *See* 49 C.F.R. 173.53 and 173.88 (1980). The 1990 USDOT amendments changed “Class A explosive” to “Division 1.1” or “Division 1.2.” What was formerly a “Class B Explosive” is now “Division 1.2” or “Division 1.3.” 49 C.F.R. 173.53 table (2006); *see* 49 C.F.R. 173.50(a)(1)-(a)(3) (2006); *see also* 55 Fed. Reg. 52402 (Dec. 21, 1990). Under the current USDOT rules, the various divisions of explosives are defined in terms that are distinct from those of the former USDOT rules. The former USDOT rules essentially defined “Class A Explosive” as “detonating or otherwise of maximum hazard.” 49 C.F.R. 173.52(a)(1) (1980); *see* 49 C.F.R. 173.53 (1980) (definition of “Class A explosives”). Those old rules essentially defined “Class B Explosive” as “flammable hazard.” 49 C.F.R. 173.52(a)(2) (1980); *see* 49 C.F.R. 173.88 (1980) (definition of “Class B explosives”). Under the current USDOT rules, an explosive is Division 1.1 “if the major hazard is mass explosion,” Division 1.2 “if the major hazard is dangerous projections,” and Division 1.3 “if the major hazard is radiant heat or violent burning, or both, but there is no blast or projection hazard.” 49 C.F.R. 173.50(b)(1), (b)(2), and (b)(3) (2006). Thus, there is no clear correlation between the designations “Class A” or “Class B” under the old USDOT rules and “Division 1.1,” “Division 1.2,” or “Division 1.3” under the existing USDOT rules. This is a defect in the current USEPA definition of “reactive waste” in 40 C.F.R. 261.23(a)(8) that impacts the exclusions from the definition of “organic peroxide” for the purpose of defining “oxidizer” in 40 C.F.R. 261.21(a)(4)(i)(A).¹⁴

There is no problem with the exclusion in 40 C.F.R. 261.21(a)(4)(i)(B) of material forbidden for transportation under the USDOT rules of 49 C.F.R. 172.101 and 173.21. While each of these provisions has changed since 1990, their basic natures and subject matters have not. *Compare* 49 C.F.R. 173.21 (2006) *with* 49 C.F.R. 173.21 (1980). That USEPA has not provided for application of the 1980 version of this USDOT rule implies that its current version is intended.

The third exclusion in 40 C.F.R. 261.21(a)(4)(i)(C) from the definition of “organic

¹⁴ The Board corrected the references to the obsolete USDOT rules in [UIC Corrections, USEPA Amendments \(January 1, 2005 through June 30, 2005\)](#), R06-5, [RCRA Subtitle D Update, USEPA Amendments \(January 1, 2005 through June 30, 2005 and August 1, 2005\)](#), R06-6, [RCRA Subtitle C Update, USEPA Amendments \(January 1, 2005 through June 30, 2005 and August 1, 2005\)](#), R06-7 (Jan. 5, 2006) (consolidated). USEPA has not yet made a corresponding correction to 40 C.F.R. 261.23(a)(8).

peroxide” is ambiguous. It provides that a material is not an organic peroxide under the following circumstances:

“It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide.” 40 C.F.R. 261.21(a)(4)(i)(C) (2006), as amended at 71 Fed. Reg. 40254 (July 14, 2006).

Since this definition is copied from the old version of 49 C.F.R. 173.151a(a)(3) (1980), it is easy to assume that USDOT has made the determination. Since the text of the current USDOT rule is essentially identical in its language, there is no problem with a determination made under an obsolete rule. *Compare* 49 C.F.R. 173.128(a)(3) (2006) with 49 C.F.R. 173.151a(a)(3) (1980). However, the USEPA rule leaves it ambiguous whether a determination by USDOT is intended. That problem would not exist if the USEPA rule cited the corresponding USDOT rule.

Similarly, the fourth and final exclusion in 40 C.F.R. 261.21(a)(4)(i)(D) from the definition of “organic peroxide” presents problems with an indefinite determination. That exclusion and its associated note read as follows:

(D) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

* * * * *

Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT. 40 C.F.R. 261.21(a)(4)(i)(D) and note 4 (2006), as amended at 71 Fed. Reg. 40254 (July 14, 2006).

While this provision makes it clear that USDOT makes the determination that the material does not present a hazard in transportation, it does not make it clear whether that determination is made under former 49 C.F.R. 173.151a or current 49 C.F.R. 173.128. If the determination is made under 173.151a, as would appear intended from the context, USDOT no longer makes determinations under that provision, and reliance would be on determinations made prior to 1990, when USDOT removed that provision from its regulations. If the determination is made under 173.128, reliance would be placed on the context of current USDOT regulations, but the definition of “organic peroxide” has changed since 1990.

For the foregoing reasons, the Board believes that the use of the obsolete USDOT language from the 1980 version of the USDOT regulations actually alters 40 C.F.R. 261.21(a)(4) in a way not intended by USEPA. Adding the old USDOT definition of “oxidizer” to the hazardous waste regulations steps backward from using what was formerly a current USDOT

hazard class to using one that is so old that its use will be fraught with uncertainty. It is very difficult to rely on regulatory mechanisms for determinations that USDOT abandoned in 1990. Adding the old USDOT definition of “organic peroxide” not only adds this uncertainty from obsolete regulatory mechanisms, it further broadens the definition of “oxidizer” to include these materials that USDOT has excluded from its definition of “oxidizer” since 1976. This inclusion gainsays USEPA’s stated intent of not deviating from the 1980 version of the USDOT regulations.

As was the case for the 40 C.F.R. 261.21(a)(3) definition of “ignitable compressed gas,” the use of the language put forward by USEPA from the 1980 version of the USDOT regulations would cause problems. It would, at best, result in a substantive change in the definition of “ignitable waste.” At worst, it could result in a definition that is too vague to be uniformly enforceable. The Board is reluctant to achieve either result.

Rather than follow the language used by USEPA and substantively amend the definition of “ignitable waste” where USEPA has made it clear that no such change is intended, the Board would prefer to maintain the *status quo ante*, as intended by USEPA. The operative concept prior to the July 14, 2006 USEPA corrections was that a USDOT-designated “oxidizer” is “ignitable waste.” USDOT has relied on 49 C.F.R. 173.127 for that designation since 1990. That designation has not included “organic peroxide” as described in current 49 C.F.R. 173.128 or former 173.151a.

The Board has not amended the text of 35 Ill. Adm. Code 721.121(a)(4) (corresponding with 40 C.F.R. 261.21(a)(4)) to include the language of the 1980 version of 49 C.F.R. 173.151 defining “oxidizer.” The Board has chosen not to broaden the definition of “oxidizer” by adding the definition of “organic peroxide”—from either of the 1980 version of 49 C.F.R. 173.151a or the current version of 49 C.F.R. 173.128. The Board has retained the existing text of 35 Ill. Adm. Code 721.121(a)(4) as corrected in 2006 to reflect the 1990 USDOT amendments. *See UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-6, RCRA Subtitle C Update, USEPA Amendments (January 1, 2005 through June 30, 2005 and August 1, 2005), R06-7 (Jan. 5, 2006) (consolidated).* The Board has changed the Board note appended to this provision, however, to note the federal correction of July 14, 2006 and explain the differences between the text of this subsection (a)(4) and corresponding 40 C.F.R. 261.21(a)(4).

Corrections to 40 C.F.R. 264.223(b)(1), 264.304(b)(1), 265.224(b)(1), and 265.303(b)(1) (corresponding with 724.323(b)(1), 724.404(b)(1), 725.324(b)(1), and 725.403(b)(1))

The USEPA correction of the spelling of “exceedence” to “exceedance” at 40 C.F.R. 264.223(b)(1), 264.304(b)(1), 265.224(b)(1), and 265.303(b)(1) runs contrary to the Board’s historic approach to this word. In *SDWA Update, USEPA Amendments (July 1, 2000 through December 31, 2000; Radionuclides)*, R01-20 (Oct. 4, 2001), the Board confronted the disparate spellings of this word. The Board stated as follows in the opinion accompanying those amendments:

The word “exceedence” or “exceedance” is relatively new to the English language. Of all the references available to the Board, the word appears only in the Encarta World English Dictionary.¹⁰ In that reference the word appears as “exceedance.” Encarta World English Dictionary 620 (1999). The word appears as “exceedance” in the definition of “exceedance probability” in another reference. Dictionary of Environmental and Civil Engineering 195 (2000). The Board has so far used the spelling, “exceedance,” as used by USEPA where the word is used in the federal regulations. See, *e.g.*, 40 C.F.R. 141.87(d)(2) and 141.201(a)(3)(ii). However, the word “exceed” derives from the Latin “*excedere*,” and the standard practice is to add the suffix “-ence” or “-ance” to create the noun form depending on the vowel at the end of the Latin word that forms the root, although there are enough exceptions to create confusion on the spellings of the words created in this way. New Shorter Oxford English Dictionary (4th ed. 1993). Thus, the standard rule would require the spelling “exceedence.”

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¹⁰ Notably, among the references checked, the word did not appear in the Random House Webster’s Unabridged Dictionary (2d ed. 1998), the New Shorter Oxford English Dictionary (4th ed. 1993), The Chambers Dictionary (2000), or the Langenscheidt’s New College Merriam-Webster English Dictionary (2000). SDWA Update, USEPA Amendments (July 1, 2000 through December 31, 2000; Radionuclides), R01-20 (Oct. 4, 2001) at pp. 9-10.

The Board then opted to follow the standard rule for Latinate words and used the spelling “exceedence.” The Board later changed the spelling to “exceedence” in the RCRA rules in RCRA Subtitle C Update, USEPA Amendments (July 1, 2002 through December 31, 2002), R03-18, at p. 64-65 (June 5, 2003).

As a result of the recent USEPA change of the spelling from “exceedence” to “exceedance,” the Board has reconsidered the previous position. The Board has chosen to follow the USEPA lead and change the spelling to “exceedance” in the Illinois rules. It appears that since the Board took its previous position with regard to the spelling, there has been a growing tendency to use the spelling “exceedance.” This is the spelling used in the relatively new fourth edition of the American Heritage Dictionary. See “exceedance.” Dictionary.com. The American Heritage Dictionary of the English Language, 4th ed. Houghton Mifflin Company, 2004. (<http://dictionary.reference.com/browse/exceedance> (accessed: February 19, 2008)). It is also apparently endorsed by Princeton University. See “exceedance.” Dictionary.com. *WordNet® 3.0*. Princeton University. (<http://dictionary.reference.com/browse/exceedance> (accessed: February 19, 2008)).

The Board searched the entire text of the Illinois hazardous waste regulations and discovered several other appearances of the spelling “exceedence.” All are in segments already

open in this proceeding. Thus, the Board will correct each spelling to “exceedance” at this time. The Board will change the spelling at Sections 703.213(f), 724.353(b)(1), 724.936(a)(2)(A)(ii) and (a)(2)(B), 724.965(a)(4), 726.206(d)(5), and 726.207(c)(3) (to agree with this spelling at corresponding 40 C.F.R. 270.27(a)(6), 264.1036(a)(2)(A)(ii) and (a)(2)(B), 264.1065(a)(4), 266.106(d)(5), and 266.107(c)(3), respectively). Upon searching the parallel segments of federal text, though, the Board has found a single occurrence of “exceedence” in the federal text that USEPA has not yet corrected. This appears at 40 C.F.R. 270.315(f), which corresponds with 35 Ill. Adm. Code 703.352(e)(6). The Board has changed this spelling also.

Corrections to 40 C.F.R. 265.405(a)(1) and two to appendix VI to 40 C.F.R. 265 (corresponding with 35 Ill. Adm. Code 725.505(a)(1) and Appendix F to 35 Ill. Adm. Code 725)

Three of USEPA’s corrections instill minor errors in the rules. The Board has not made the corresponding corrections. In 40 C.F.R. 265.405(a)(1), USEPA changed the text to read “§§ 261.21 or 261.23.” Use of “§§” is the plural abbreviation for “sections.” The text “261.21 or 261.23” is in the disjunctive, so the singular is appropriate. Appendix VI to 40 C.F.R. 264 changed the spellings “dimethylolpropane” to “dimethylpropane” and “sulfone” to “sultone.” The proper spellings of these chemical species are indeed “dimethylolpropane” and “sulfone.”

The Board requests public comment on the incorporation of the July 14, 2008 federal hazardous waste and used oil corrections into the Illinois regulations. In particular, the Board requests comments on five specific aspects of these amendments. First, should the Board use the current USDOT definition of “flammable gas” in place of adding the language of the obsolete 1980 definition of “flammable compressed gas” as a segment of the definition of “ignitable waste,” as was done by USEPA? Second, if the Board is to use the language of the 1980 definition of “flammable compressed gas” to define “ignitable waste,” how should the Board best incorporate the obsolete Bureau of Explosives methods into the Illinois rules? Third, should the Board use of the current USDOT definition of “oxidizer” in place of adding the language of the obsolete 1980 definition of “oxidizer” as a segment of the definition of “ignitable waste,” as was done by USEPA? Third, should the Board include the language of the obsolete 1980 USDOT definition of “organic peroxide” as a segment of the definition of “oxidizer” for the purposes of defining “ignitable waste,” as was done by USEPA? Fourth, should the Board depart from past preference, follow USEPA’s lead, and change the spelling “exceedence” to “exceedance”? Finally, does the Board correctly decline to make three corrections to Sections 725.505(a)(1) and Appendix F to correspond with USEPA corrections to 40 C.F.R. 265.405(a)(1) and two to appendix VI to 40 C.F.R. 265 that the Board believes to have been errors, as described immediately above.

Conditional Exclusion of Used CRTs from the Definition of Solid Waste--Sections 720.110 and 721.104 and Subpart E of Part 721¹⁵

On July 28, 2006 (71 Fed. Reg. 42928), USEPA adopted a conditional exclusion for used cathode ray tubes (CRTs) from the definition of solid waste. Under the exclusion, used, intact CRTs that are not disposed of or accumulated speculatively are not solid waste. If the CRTs are intended for export, they are excluded if the person managing them fulfills specified notice and consent requirements. If the used CRTs are broken, specified minimal management, storage, transportation, accumulation, and export requirements apply. Requirements similar to those that apply to used, broken CRTs apply to the glass extracted from used CRTs.

The Board incorporated the federal July 28, 2006 exclusion of CRTs from the definition of solid waste without substantive deviation from the corresponding federal text. The deviations from the text of the federal amendments are restricted to those structural and stylistic changes needed to make the text comport with the *Illinois Register* format and the Board's preferred style and to add clarity and ease of use for the regulated community. Table A, which begins on page 101 of this opinion, itemizes the various revisions made in the federal text in adapting it into the State regulations.

The Board does not review the substance and merits of the underlying federal action in an identical-in-substance proceeding, except to the extent that it may be necessary to do so in order to incorporate the federal provisions into the Illinois regulations. Persons interested in the details of the federal amendments should consult the July 28, 2006 *Federal Register* notice.

Only one aspect of the CRT exclusion warrants particular consideration here, since the Board has found it necessary to depart from the language of the federal regulations in only two significant ways. The first relates to the use of a key, defined term. USEPA added a definition of "CRT processing" to 40 C.F.R. 260.10. This phrase is used in new 40 C.F.R. 261.39(b), which outlines the requirements that apply to this activity. In 40 C.F.R. 261.39(a), however, USEPA imposes requirements "prior to processing." To clarify that "CRT processing" is intended, the Board used this defined phrase in corresponding 35 Ill. Adm. Code 721.139(a). Similarly, USEPA used the phrases "processed CRT glass" and "glass from used CRTs" in 40 C.F.R. 261.39(c). The Board changed these to use the defined term also, so that they both now read "glass from CRT processing" in corresponding 35 Ill. Adm. Code 721.139(c). The Board has further changed the phrase "after processing" in this same subsection (c) to "after CRT processing." Finally, USEPA used the phrase "glass from used CRTs" in 40 C.F.R. 261.39(d). The Board changed this to "glass from CRT processing" in corresponding 35 Ill. Adm. Code 721.139(c) to standardize the usage and clarify the intent.

The second significant deviation from the federal text relates to export notifications. USEPA requires in 40 C.F.R. 261.39(a)(5) and 261.41 that a person who exports used CRTs submit a prior notification to USEPA. Based on 35 Ill. Adm. Code 261.39(a)(5)(v), it is clear that USEPA will act in a central role in obtaining export authorizations from receiving countries.

¹⁵ Sections 721.138, 721.139, 721.140, 721.141.

Thus, throughout the text of corresponding 35 Ill. Adm. Code 721.139(a)(5) and 721.141, the Board has required that the person exporting the CRTs submit the export requests to USEPA. For the purposes of aiding enforcement and Agency inspections of facility records, the Board has required parallel submissions by the person exporting the CRTs to the Agency. The Board added a Board note to Section 721.139(a) that explains the parallel submissions and adds that the parallel submissions are not intended to require or authorize a parallel authorization by the Agency.

The Board requests public comment on the incorporation of the July 28, 2006 exclusion of CRTs from the definition of solid waste. In particular, the Board requests comment on the changes in the language discussed above to use the defined term “CRT processing” in place of other phrases used by USEPA. The Board also specifically requests comment on the following three questions posed by export notification requirements: (1) Is it necessary to add the Agency as a recipient of the notifications? (2) Is it necessary to include the export notification requirements in the Illinois rule if USEPA is the entity that is to receive and process them? (3) Would it be better to simply cross-reference to the federal export notification requirements than to include them in the Illinois rules?

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, 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.

Table 1:
Tabulation of Amendments Needed to Complete the
Federal Manifest Amendments of March 4, 2005

As discussed above on pages 2 and 3 of this opinion, the Board is using this as the first opportunity after September 6, 2006 to complete amendments based on the amendments to the hazardous waste manifest system that USEPA adopted on March 4, 2005. USEPA in those amendments codified two parallel versions of its rules, one effective until September 6, 2006 and the other effective after that date. In the corresponding update docket, UIC Corrections, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-5, RCRA Subtitle D Update, USEPA Amendments (January 1, 2005 through June 30, 2005), R06-6, RCRA Subtitle C Update (January 1, 2005 through June 30, 2005), R06-7 (Jan. 5, 2006) (consolidated), the Board could not codify both versions using the same subsection designations, as did USEPA, so the Board restructured the rules to accommodate the two versions under different designations. The amendments that appear in the following table are necessary to remove the obsolete provisions and restructure the Illinois rules to again agree with the structure of the corresponding federal provisions.

Provision	Necessary Amendments
720.110 “designated facility”	Remove “effective September 5, 2006”
720.110 “manifest document number”	Remove the definition
720.110 “manifest tracking number”	Remove “effective September 5, 2006”
722.120(a)	Remove subsection (a)
722.120(a)(1)	Remove subsection (a)(1)
722.120(a)(2)	Remove subsection (a)(2)
722.121(a)	Remove subsection (a)
722.121(a)(1)	Remove subsection (a)(1)
722.121(a)(2)	Remove subsection (a)(2)
722.121(b)	Remove subsection (b)
722.121(b)(1)	Renumber subsection (b)(1) to subsection (a)
722.121(b)(1)(A)	Renumber subsection (b)(1)(A) to subsection (a)(1); change “(b)(3)” to “(c)”; change “(b)(5)” to “(e)”
722.121(b)(1)(B)	Renumber subsection (b)(1)(B) to subsection (a)(2); change “subsection (b)” to “Section”
722.121(b)(2)	Renumber subsection (b)(2) to subsection (b)

Provision	Necessary Amendments
722.121(b)(2)(A)	Renumber subsection (b)(2)(A) to subsection (b)(1)
722.121(b)(2)(B)	Renumber subsection (b)(2)(B) to subsection (b)(2)
722.121(b)(2)(C)	Renumber subsection (b)(2)(C) to subsection (b)(3)
722.121(b)(2)(D)	Renumber subsection (b)(2)(D) to subsection (b)(4)
722.121(b)(2)(E)	Renumber subsection (b)(2)(E) to subsection (b)(5)
722.121(b)(2)(E)(i)	Renumber subsection (b)(2)(E)(i) to subsection (b)(5)(A)
722.121(b)(2)(E)(ii)	Renumber subsection (b)(2)(E)(ii) to subsection (b)(5)(B); change “subsection (b)” to “Section”
722.121(b)(2)(E)(iii)	Renumber subsection (b)(2)(E)(iii) to subsection (b)(5)(C)
722.121(b)(2)(F)	Renumber subsection (b)(2)(F) to subsection (b)(6)
722.121(b)(2)(G)	Renumber subsection (b)(2)(G) to subsection (b)(7)
722.121(b)(2)(H)	Renumber subsection (b)(2)(H) to subsection (b)(8); change “subsection (b)” to “Section”
722.121(b)(3)	Renumber subsection (b)(3) to subsection (c); change “(b)(2)” to “(b)”
722.121(b)(4)	Renumber subsection (b)(4) to subsection (d)
722.121(b)(4)(A)	Renumber subsection (b)(4)(A) to subsection (d)(1); change “(b)(3)” to “(c)” (twice); change “(b)(4)(C)” to “(d)(3)”;
722.121(b)(4)(B)	Renumber subsection (b)(4)(B) to subsection (d)(2)
722.121(b)(4)(B)(i)	Renumber subsection (b)(4)(B)(i) to subsection (d)(2)(A)
722.121(b)(4)(B)(ii)	Renumber subsection (b)(4)(B)(ii) to subsection (d)(2)(B)
722.121(b)(4)(B)(iii)	Renumber subsection (b)(4)(B)(iii) to subsection (d)(2)(C)
722.121(b)(4)(B)(iv)	Renumber subsection (b)(4)(B)(iv) to subsection (d)(2)(D)
722.121(b)(4)(C)	Renumber subsection (b)(4)(C) to subsection (d)(3)
722.121(b)(5)	Renumber subsection (b)(5) to subsection (e); change “(b)(3)” to “(c)”;
722.121(b)(6)	Renumber subsection (b)(6) to subsection (f)
722.121(b)(6)(A)	Renumber subsection (b)(6)(A) to subsection (f)(1)
722.121(b)(6)(B)	Renumber subsection (b)(6)(B) to subsection (f)(2)
722.121(b)(6)(C)	Renumber subsection (b)(6)(C) to subsection (f)(3)
722.121(b)(6)(D)	Renumber subsection (b)(6)(D) to subsection (f)(4)
722.121(b)(6)(E)	Renumber subsection (b)(6)(E) to subsection (f)(5)
722.121(b)(6)(F)	Renumber subsection (b)(6)(F) to subsection (f)(6)
722.121(b)(6)(F)(i)	Renumber subsection (b)(6)(F)(i) to subsection (f)(6)(A)
722.121(b)(6)(F)(ii)	Renumber subsection (b)(6)(F)(ii) to subsection (f)(6)(B)
722.121(b)(6)(F)(iii)	Renumber subsection (b)(6)(F)(iii) to subsection (f)(6)(C)
722.121(b)(6)(F)(iv)	Renumber subsection (b)(6)(F)(iv) to subsection (f)(6)(D)
722.121(b)(6)(F)(v)	Renumber subsection (b)(6)(F)(v) to subsection (f)(6)(E)
722.121(b)(6)(F)(vi)	Renumber subsection (b)(6)(F)(vi) to subsection (f)(6)(F)
722.121(b)(6)(G)	Renumber subsection (b)(6)(G) to subsection (f)(7); change “(b)(6) and subsection (b)(14)” to “(f)”;
722.121(b)(6)(G)	Remove Board note
Board note	
722.121(b)(7)	Renumber subsection (b)(7) to subsection (g)

Provision	Necessary Amendments
722.121(b)(7)(A)	Renumber subsection (b)(7)(A) to subsection (g)(1); change “(b)(3) and “(b)(5)” to “(c) and (e)”
722.121(b)(7)(A)(i)	Renumber subsection (b)(7)(A)(i) to subsection (g)(1)(A)
722.121(b)(7)(A)(ii)	Renumber subsection (b)(7)(A)(ii) to subsection (g)(1)(B)
722.121(b)(7)(A)(iii)	Renumber subsection (b)(7)(A)(iii) to subsection (g)(1)(C)
722.121(b)(7)(A)(iv)	Renumber subsection (b)(7)(A)(iv) to subsection (g)(1)(D)
722.121(b)(7)(B)	Renumber subsection (b)(7)(B) to subsection (g)(2)
722.121(b)(8)	Renumber subsection (b)(8) to subsection (h)
722.121(b)(8)(A)	Renumber subsection (b)(8)(A) to subsection (h)(1); change “(b)(3)” to “(c)”
722.121(b)(8)(B)	Renumber subsection (b)(8)(B) to subsection (h)(2)
722.121(b)(8)(C)	Renumber subsection (b)(8)(C) to subsection (h)(3); change “(b)(5)” to “(e)”
722.121(b)(9)	Renumber subsection (b)(9) to subsection (i); change “(b)(5)” to “(e)”
722.121(b)(10)	Renumber subsection (b)(10) to subsection (j); change “(b)(4) or (b)(8)(C)” to “(d) or (h)(3)”
722.121(b)(11)	Renumber subsection (b)(11) to subsection (k)
722.121(b)(12)	Renumber subsection (b)(12) to subsection (l); change “(b)(5)” to “(e)”
722.121(b)(13)	Renumber subsection (b)(13) to subsection (m)
722.121(b)(13)(A)	Renumber subsection (b)(13)(A) to subsection (m)(1)
722.121(b)(13)(A)(i)	Renumber subsection (b)(13)(A)(i) to subsection (m)(1)(A)
722.121(b)(13)(A)(ii)	Renumber subsection (b)(13)(A)(ii) to subsection (m)(1)(B)
722.121(b)(13)(B)	Renumber subsection (b)(13)(B) to subsection (m)(2)
722.121(b)(14)	Remove the subsection (b)(14) heading
722.121(b)(14)(A)	Move subsection (b)(14)(A) to appear as subsection (f)(7)(A)
722.121(b)(14)(A)(i)	Move subsection (b)(14)(A)(i) to appear as subsection (f)(7)(A)(i)
722.121(b)(14)(A)(ii)	Move subsection (b)(14)(A)(ii) to appear as subsection (f)(7)(A)(ii)
722.121(b)(14)(A)(iii)	Move subsection (b)(14)(A)(iii) to appear as subsection (f)(7)(A)(iii)
722.121(b)(14)(B)	Move subsection (b)(14)(B) to appear as subsection (f)(7)(B)
722.121(b)(14)(B)(i)	Move subsection (b)(14)(B)(i) to appear as subsection (f)(7)(B)(i)
722.121(b)(14)(B)(ii)	Move subsection (b)(14)(B)(ii) to appear as subsection (f)(7)(B)(ii)
722.121(b)(14)(B)(iii)	Move subsection (b)(14)(B)(iii) to appear as subsection (f)(7)(B)(iii)
722.121(b)(14) Board note	Remove the Board note
722.121 Board note	Remove the Board note
722.127 preamble	Remove “effective September 5, 2006”
722.132(b)(1)	Remove subsection (b)(1)
722.132(b)(2)	Renumber subsection (b)(2) to (b); remove “effective September 5, 2006”
722.132(b) Board note	Remove Board note
722.133(a)	Removed subsection (b)(1)
722.133(b)	Remove the subsection designation; remove “effective September 5, 2006”
722.133 Board note	Remove Board note

Provision	Necessary Amendments
722.134(m)	Remove “effective September 5, 2006”
722.160(c)	Change “722.121(a) or (b)(7)” to “722.121”
722.160(d)	Remove “effective September 5, 2006”
722.160(e)	Remove “effective September 5, 2006”; change “724.171(a)(2)(C) or 725.171(a)(2)(C)” to “724.171(a)(3) or 725.171(a)(3)”
723.120(a)(1)	Remove subsection (a)(1)
723.120(a)(1)(A)	Remove subsection (a)(1)(A)
723.120(a)(1)(A)(i)	Remove subsection (a)(1)(A)(i)
723.120(a)(1)(A)(ii)	Remove subsection (a)(1)(A)(ii)
723.120(a)(1)(B)	Remove subsection (a)(1)(B)
723.120(a)(2)	Remove subsection (a)(2)
723.120(a)(2)(A)	Re-number subsection (a)(2)(A) to subsection (a)(1)
723.120(a)(2)(B)	Re-number subsection (a)(2)(B) to subsection (a)(2)
723.120(a)(2)(B)(i)	Re-number subsection (a)(2)(B)(i) to subsection (a)(2)(A)
723.120(a)(2)(B)(ii)	Re-number subsection (a)(2)(B)(ii) to subsection (a)(2)(B)
723.120(a) Board note	Remove Board note
723.120(g)(1)	Remove subsection (g)(1)
723.120(g)(1)(A)	Remove subsection (g)(1)(A)
723.120(g)(1)(B)	Remove subsection (g)(1)(B)
723.120(g)(1)(C)	Remove subsection (g)(1)(C)
723.120(g)(1)(D)	Remove subsection (g)(1)(D)
723.120(g)(2)	Remove subsection (g)(2)
723.120(g)(2)(A)	Re-number subsection (g)(2)(A) to subsection (g)(1)
723.120(g)(2)(B)	Re-number subsection (g)(2)(B) to subsection (g)(2)
723.120(g)(2)(C)	Re-number subsection (g)(2)(C) to subsection (g)(3)
723.120(g)(2)(D)	Re-number subsection (g)(2)(D) to subsection (g)(4)
723.120(g) Board note	Remove Board note
723.121(b)(1)	Remove subsection (b)(1)
723.121(b)(2)	Remove subsection (b)(2)
723.121(b)(2)(A)	Re-number subsection (b)(2)(A) to subsection (b)(1)
723.121(b)(2)(B)	Re-number subsection (b)(2)(B) to subsection (b)(2)
723.121(b)(2)(B)(i)	Re-number subsection (b)(2)(B)(i) to subsection (b)(2)(A); change “(b)(5)(A) through (b)(5)(F) or (b)(6)(A) through (b)(6)(F)” to “(e)(1) through (e)(6) or (f)(1) through (f)(6)” (twice)
723.121(b)(2)(B)(ii)	Re-number subsection (b)(2)(B) to subsection (b)(2)(B); change “(b)(5)(A) through (b)(5)(F) or (b)(6)(A) through (b)(6)(F)” to “(e)(1) through (e)(6) or (f)(1) through (f)(6)” (twice)
723.121(b) Board note	Remove Board note
724.171(a)(1)	Remove subsection (a)(1)
724.171(a)(1)(A)	Remove subsection (a)(1)(A)
724.171(a)(1)(B)	Remove subsection (a)(1)(B)
724.171(a)(1) Board note	Remove Board note

Provision	Necessary Amendments
724.171(a)(1)(C)	Remove subsection (a)(1)(C)
724.171(a)(1)(D)	Remove subsection (a)(1)(D)
724.171(a)(1)(E)	Remove subsection (a)(1)(E)
724.171(a)(2)	Remove subsection (a)(2)
724.171(a)(2)(A)	Renumber subsection (a)(2)(A) to subsection (a)(1); change “(a)(2)(B)” to “(a)(2)”
724.171(a)(2)(B)	Renumber subsection (a)(2)(B) to subsection (a)(2)
724.171(a)(2)(B)(i)	Renumber subsection (a)(2)(B)(i) to subsection (a)(2)(A)
724.171(a)(2)(B)(ii)	Renumber subsection (a)(2)(B)(ii) to subsection (a)(2)(B); change “724.172(b)” to “724.172”
724.171(a)(2)(B)(iii)	Renumber subsection (a)(2)(B)(iii) to subsection (a)(2)(C)
724.171(a)(2)(B)(iv)	Renumber subsection (a)(2)(B)(iv) to subsection (a)(2)(D)
724.171(a)(2)(B)(v)	Renumber subsection (a)(2)(B)(v) to subsection (a)(2)(E)
724.171(a)(2)(C)	Renumber subsection (a)(2)(C) to subsection (a)(3)
724.171(a) Board note	Remove Board note
724.171(b)(4)	Remove subsection (b)(4)
724.171(b)(4)(A)	Remove subsection (b)(4)(A)
724.171(b)(4)(B)	Renumber subsection (b)(4)(B) to subsection (b)(4); remove “effective September 5, 2006”
724.171(b)(4) Board note	Remove last two sentences of Board note
724.172(a)	Remove subsection (a)
724.172(a)(1)	Remove subsection (a)(1)
724.172(a)(1)(A)	Remove subsection (a)(1)(A)
724.172(a)(1)(B)	Remove subsection (a)(1)(B)
724.172(a)(1)(B)(i)	Remove subsection (a)(1)(B)(i)
724.172(a)(1)(B)(ii)	Remove subsection (a)(1)(B)(ii)
724.172(a)(1)(C)	Remove subsection (a)(1)(C)
724.172(a)(2)	Remove subsection (a)(2)
724.172(b)	Remove subsection (b)
724.172(b)(1)	Renumber subsection (b)(1) to subsection (a)
724.172(b)(1)(A)	Renumber subsection (b)(1)(A) to subsection (a)(1); change “(b)(2)” to “(b)”
724.172(b)(1)(B)	Renumber subsection (b)(1)(B) to subsection (a)(2)
724.172(b)(1)(C)	Renumber subsection (b)(1)(C) to subsection (a)(3)
724.172(b)(2)	Renumber subsection (b)(2) to subsection (b)
724.172(b)(3)	Renumber subsection (b)(3) to subsection (c)
724.172(b)(4)	Renumber subsection (b)(4) to subsection (d)
724.172(b)(4)(A)	Renumber subsection (b)(4)(A) to subsection (d)(1)
724.172(b)(4)(B)	Renumber subsection (b)(4)(B) to subsection (d)(2); change “(b)(5) or (b)(6)” to “(e) or (f)”
724.172(b)(5)	Renumber subsection (b)(5) to subsection (e); change “(b)(5)(G)” to “(e)(7)”
724.172(b)(5)(A)	Renumber subsection (b)(5)(A) to subsection (e)(1)

Provision	Necessary Amendments
724.172(b)(5)(B)	Re-number subsection (b)(5)(B) to subsection (e)(2)
724.172(b)(5)(C)	Re-number subsection (b)(5)(C) to subsection (e)(3)
724.172(b)(5)(D)	Re-number subsection (b)(5)(D) to subsection (e)(4)
724.172(b)(5)(E)	Re-number subsection (b)(5)(E) to subsection (e)(5)
724.172(b)(5)(F)	Re-number subsection (b)(5)(F) to subsection (e)(6)
724.172(b)(5)(G)	Re-number subsection (b)(5)(G) to subsection (e)(7); change “(b)(5)(A) through (b)(5)(F)” to “(e)(1) through (e)(6)”
724.172(b)(6)	Re-number subsection (b)(6) to subsection (f); change “(b)(6)(G)” to “(f)(7)”
724.172(b)(6)(A)	Re-number subsection (b)(6)(A) to subsection (f)(1)
724.172(b)(6)(B)	Re-number subsection (b)(6)(B) to subsection (f)(2)
724.172(b)(6)(C)	Re-number subsection (b)(6)(C) to subsection (f)(3)
724.172(b)(6)(D)	Re-number subsection (b)(6)(D) to subsection (f)(4)
724.172(b)(6)(E)	Re-number subsection (b)(6)(E) to subsection (f)(5)
724.172(b)(6)(F)	Re-number subsection (b)(6)(F) to subsection (f)(6)
724.172(b)(6)(G)	Re-number subsection (b)(6)(G) to subsection (f)(7); change “(b)(6)(A) through (b)(6)(F)” to “(f)(1) through (f)(6)”
724.172(b)(7)	Re-number subsection (b)(7) to subsection (g)
724.172 Board note	Remove Board note
724.176(a)	Remove subsection (a)
724.176(a)(1)	Remove subsection (a)(1)
724.176(a)(2)	Remove subsection (a)(2)
724.176(a)(3)	Remove subsection (a)(3)
724.176(a)(4)	Remove subsection (a)(4)
724.176(a)(5)	Remove subsection (a)(5)
724.176(a)(6)	Remove subsection (a)(6)
724.176(a)(7)	Remove subsection (a)(7)
724.176(b)	Re-number subsection (b) to subsection (a); remove “the following . . . effective September 5, 2006”
724.176(b)(1)	Re-number subsection (b)(1) to subsection (a)(1)
724.176(b)(2)	Re-number subsection (b)(2) to subsection (a)(2)
724.176(b)(3)	Re-number subsection (b)(3) to subsection (a)(3)
724.176(b)(4)	Re-number subsection (b)(4) to subsection (a)(4)
724.176(b)(5)	Re-number subsection (b)(5) to subsection (a)(5)
724.176(b)(6)	Re-number subsection (b)(6) to subsection (a)(6)
724.176(b)(7)	Re-number subsection (b)(7) to subsection (a)(7)
724.176(b) note	Add an explanatory provision as subsection (b) to maintain structural consistency
724.176 Board note	Remove last two sentences of Board note
725.171(a)(1)	Remove subsection (a)(1)
725.171(a)(1)(A)	Remove subsection (a)(1)(A)
725.171(a)(1)(B)	Remove subsection (a)(1)(B)
725.171(a)(1) Board	Remove Board note

Provision	Necessary Amendments
note	
725.171(a)(1)(C)	Remove subsection (a)(1)(C)
725.171(a)(1)(D)	Remove subsection (a)(1)(D)
725.171(a)(1)(E)	Remove subsection (a)(1)(E)
725.171(a)(2)	Remove subsection (a)(2)
725.171(a)(2)(A)	Renumber subsection (a)(2)(A) to subsection (a)(1); change “(a)(2)(B)” to “(a)(2)”
725.171(a)(2)(B)	Renumber subsection (a)(2)(B) to subsection (a)(2)
725.171(a)(2)(B)(i)	Renumber subsection (a)(2)(B)(i) to subsection (a)(2)(A)
725.171(a)(2)(B)(ii)	Renumber subsection (a)(2)(B)(ii) to subsection (a)(2)(B); change “724.172(b)” to “724.172”
725.171(a)(2)(B)(iii)	Renumber subsection (a)(2)(B)(iii) to subsection (a)(2)(C)
725.171(a)(2)(B)(iv)	Renumber subsection (a)(2)(B)(iv) to subsection (a)(2)(D)
725.171(a)(2)(B)(v)	Renumber subsection (a)(2)(B)(v) to subsection (a)(2)(E)
725.171(a)(2)(C)	Renumber subsection (a)(2)(C) to subsection (a)(3)
725.171(a) Board note	Remove Board note
725.171(b)(4)	Remove subsection (b)(4)
725.171(b)(4)(A)	Remove subsection (b)(4)(A)
725.171(b)(4)(B)	Renumber subsection (b)(4)(B) to subsection (b)(4); remove “effective September 5, 2006”
725.171(b)(4) Board note	Remove last two sentences of Board note
725.172(a)	Remove subsection (a)
725.172(a)(1)	Remove subsection (a)(1)
725.172(a)(2)	Remove subsection (a)(2)
725.172(a)(2)(A)	Remove subsection (a)(2)(A)
725.172(a)(2)(B)	Remove subsection (a)(2)(B)
725.172(a)(3)	Remove subsection (a)(3)
725.172(a)(4)	Remove subsection (a)(4)
725.172(b)	Remove subsection (b)
725.172(b)(1)	Renumber subsection (b)(1) to subsection (a)
725.172(b)(1)(A)	Renumber subsection (b)(1)(A) to subsection (a)(1); change “(b)(2)” to “(b)”
725.172(b)(1)(B)	Renumber subsection (b)(1)(B) to subsection (a)(2)
725.172(b)(1)(C)	Renumber subsection (b)(1)(C) to subsection (a)(3)
725.172(b)(2)	Renumber subsection (b)(2) to subsection (b)
725.172(b)(3)	Renumber subsection (b)(3) to subsection (c)
725.172(b)(4)	Renumber subsection (b)(4) to subsection (d)
725.172(b)(4)(A)	Renumber subsection (b)(4)(A) to subsection (d)(1)
725.172(b)(4)(B)	Renumber subsection (b)(4)(B) to subsection (d)(2); change “(b)(5) or (b)(6)” to “(e) or (f)”
725.172(b)(5)	Renumber subsection (b)(5) to subsection (e); change “(b)(5)(G)” to “(e)(7)”
725.172(b)(5)(A)	Renumber subsection (b)(5)(A) to subsection (e)(1)

Provision	Necessary Amendments
725.172(b)(5)(B)	Re-number subsection (b)(5)(B) to subsection (e)(2)
725.172(b)(5)(C)	Re-number subsection (b)(5)(C) to subsection (e)(3)
725.172(b)(5)(D)	Re-number subsection (b)(5)(D) to subsection (e)(4)
725.172(b)(5)(E)	Re-number subsection (b)(5)(E) to subsection (e)(5)
725.172(b)(5)(F)	Re-number subsection (b)(5)(F) to subsection (e)(6)
725.172(b)(5)(G)	Re-number subsection (b)(5)(G) to subsection (e)(7); change “(b)(5)(A) through (b)(5)(F)” to “(e)(1) through (e)(6)”
725.172(b)(6)	Re-number subsection (b)(6) to subsection (f); change “(b)(6)(A) through (b)(6)(F)” to “(f)(1) through (f)(6)”
725.172(b)(6)(A)	Re-number subsection (b)(6)(A) to subsection (f)(1)
725.172(b)(6)(B)	Re-number subsection (b)(6)(B) to subsection (f)(2)
725.172(b)(6)(C)	Re-number subsection (b)(6)(C) to subsection (f)(3)
725.172(b)(6)(D)	Re-number subsection (b)(6)(D) to subsection (f)(4)
725.172(b)(6)(E)	Re-number subsection (b)(6)(E) to subsection (f)(5)
725.172(b)(6)(F)	Re-number subsection (b)(6)(F) to subsection (f)(6)
725.172(b)(6)(G)	Re-number subsection (b)(6)(G) to subsection (f)(7); change “(b)(6)(A) through (b)(6)(F)” to “(f)(1) through (f)(6)”
725.172(b)(7)	Re-number subsection (b)(7) to subsection (g)
725.172 Board note	Remove Board note
725.176(a)	Remove subsection (a)
725.176(a)(1)	Remove subsection (a)(1)
725.176(a)(2)	Remove subsection (a)(2)
725.176(a)(3)	Remove subsection (a)(3)
725.176(a)(4)	Remove subsection (a)(4)
725.176(a)(5)	Remove subsection (a)(5)
725.176(a)(6)	Remove subsection (a)(6)
725.176(a)(7)	Remove subsection (a)(7)
725.176(b)	Re-number subsection (b) to subsection (a); remove “the following . . . effective September 5, 2006”
725.176(b)(1)	Re-number subsection (b)(1) to subsection (a)(1)
725.176(b)(2)	Re-number subsection (b)(2) to subsection (a)(2)
725.176(b)(3)	Re-number subsection (b)(3) to subsection (a)(3)
725.176(b)(4)	Re-number subsection (b)(4) to subsection (a)(4)
725.176(b)(5)	Re-number subsection (b)(5) to subsection (a)(5)
725.176(b)(6)	Re-number subsection (b)(6) to subsection (a)(6)
725.176(b)(7)	Re-number subsection (b)(7) to subsection (a)(7)
725.176(b) note	Add an explanatory provision as subsection (b) to maintain structural consistency
725.176 Board note	Remove last two sentences of Board note

Table 2:
Listing of Updated Code of Federal Regulations Provisions

As discussed above on page 4 of this opinion, various provisions of the *Code of Federal Regulations* are incorporated by reference in 35 Ill. Adm. Code 720.111(b). The Board has updated the edition of each title incorporated to the latest version available. The following table indicates the latest edition available and lists the *Federal Register* citations to subsequent updates to that latest edition.¹⁶

Nuclear Regulatory Commission Regulations (C.F.R. updated January 1, 2007)

Federal Provision	Amendments Since Most Recent C.F.R. Edition
10 C.F.R. 20.2006	72 Fed. Reg. 55864 (Oct. 1, 2007)
Table II, column 2 in appendix B to 10 C.F.R. 20	72 Fed. Reg. 55864 (Oct. 1, 2007)
10 C.F.R. 71	72 Fed. Reg. 63969 (Nov. 14, 2007)

U.S. Coast Guard Regulations (C.F.R. updated July 1, 2005)

Federal Provision	Amendments Since Most Recent C.F.R. Edition
33 C.F.R. 153.203	No federal amendments in this period.

U.S. Environmental Protection Agency Regulations (C.F.R. updated July 1, 2007)

Federal Provision	Amendments Since Most Recent C.F.R. Edition
40 C.F.R. 60	72 Fed. Reg. 51365 (Sep. 7, 2007), 72 Fed. Reg. 51494 (Sep. 7, 2007), 72 Fed. Reg. 55278 (Sep. 28, 2007), 72 Fed. Reg. 59190 (Oct. 19, 2007), 72 Fed. Reg. 62414 (Nov. 5, 2007), 72 Fed. Reg. 64860 (Nov. 16, 2007)
40 C.F.R. 60, subpart VV (§§ 60.480-60.489)	72 Fed. Reg. 64860 (Nov. 16, 2007)
40 C.F.R. 60, appendix A	72 Fed. Reg. 51365 (Sep. 7, 2007), 72 Fed. Reg. 51494 (Sep. 7, 2007), 72 Fed. Reg. 55278 (Sep. 28, 2007)
40 C.F.R. 63	72 Fed. Reg. 36363 (July 3, 2007), 72 Fed. Reg. 38864 (July 16, 2007), 72 Fed. Reg. 61060 (Oct. 29, 2007), 72 Fed. Reg. 73180 (Dec. 26, 2007), 72 Fed. Reg. 73611 (Dec. 28, 2007), 72 Fed. Reg. 74088 (Dec. 28, 2007)

¹⁶ Segments of the *Code of Federal Regulations* that are not listed were not amended since the latest edition of the *Code*, even if incorporated by reference.

Federal Provision	Amendments Since Most Recent C.F.R. Edition
40 C.F.R. 761	72 Fed. Reg. 53152 (Sep. 18, 2007), 72 Fed. Reg. 57235 (Oct. 9, 2007)
40 C.F.R. 761.60	72 Fed. Reg. 57235 (Oct. 9, 2007)
40 C.F.R. 761.65	72 Fed. Reg. 57235 (Oct. 9, 2007)
40 C.F.R. 761.70	72 Fed. Reg. 57235 (Oct. 9, 2007)

U.S. Department of Transportation Regulations (C.F.R. updated October 1, 2007)

Federal Provision	Amendments Since Most Recent C.F.R. Edition
Subpart B of 49 C.F.R. 107 (§§ 107.101-101.127)	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 171	72 Fed. Reg. 55678 (Oct. 1, 2007), 72 Fed. Reg. 59147 (Oct. 18, 2007)
49 C.F.R. 171.8	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 171.15	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 172	72 Fed. Reg. 55678 (Oct. 1, 2007), 72 Fed. Reg. 59147 (Oct. 18, 2007)
Subpart F of 49 C.F.R. 172 (§§ 172.500-172.560)	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 173	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 174	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 175	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 176	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 178	72 Fed. Reg. 55678 (Oct. 1, 2007), 72 Fed. Reg. 59147 (Oct. 18, 2007)
49 C.F.R. 179	72 Fed. Reg. 55678 (Oct. 1, 2007)
49 C.F.R. 180	72 Fed. Reg. 55678 (Oct. 1, 2007)

Table 3:
Summary Listing of the Board Disposition of Each USEPA Revision Made in
the July 14, 2006 Hazardous Waste and Used Oil Corrections

The following table briefly outlines the federal corrections of July 14, 2006. It further indicates the corresponding Illinois provision and whether Board action to amend that provision was necessary based on the federal correction. Where action was necessary, the table indicates the nature of the action. Where no action was necessary, the table indicates why no action was necessary. Discussion of the significant changes appears following this table, on pages 26 through 58 of this opinion.

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
260.10 “incompatible waste”: Added a reference to appendix V of part 264	720.110 “incompatible waste”: The Board added a reference to corresponding Appendix E to part 724

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
260.10 “personnel”: Removed comma after “work”	720.110 “personnel”: Not necessary, comma already removed
260.10 “universal waste”: Removed “§” symbol before “273”	720.110 “universal waste”: Not necessary, symbol already removed
260.10 “used oil”: Corrected “in contaminated” to “is contaminated”	720.110 “used oil”: Not necessary, already corrected
260.22(a)(1): Corrected the spelling “actutely hazardous waste” to “acutely hazardous waste”	720.122(a)(1): Not necessary, the Board used “acute hazardous waste” in Sections 720.122(a)(1), 721.105(e) Board note, and 721.130(d), corresponding with “acutely hazardous waste” in 40 C.F.R. 260.22(a)(1), 261.5(e) note, and 261.30(d), to standardize the language throughout the rules
260.22(d)(1)(ii): Corrected the spelling “hazrdous” to “hazardous waste”	720.122(d)(1)(A): Not necessary, the Board used “acute hazardous waste” in Sections 720.122(a)(1), 721.105(e) Board note, and 721.130(d), corresponding with “acutely hazardous waste” in 40 C.F.R. 260.22(a)(1), 261.5(e) note, and 261.30(d), to standardize the language throughout the rules
260.40(a): Corrected the reference “261.6(a)(2)(iv)” to “261.6(a)(2)(iii)”	720.140(a): The Board corrected the cross-reference to corresponding “721.106(a)(2)(C)”
260.41: Corrected the reference “261.6(a)(2)(iv)” to “261.6(a)(2)(iii)”	720.141: The Board corrected the cross-reference to corresponding “721.106(a)(2)(C)”
261.2(c)(1)(i): Corrected the reference “Table I” to “Table 1”	721.102(c)(1)(A): Not necessary, the Board rendered the federal “Table 1” as Appendix Z to Part 721
261.3(a)(2)(i): Corrected the reference “Table I” to “Table 1”	721.103(a)(2)(A): Not necessary, the Board rendered the federal reference to “Table 1 to § 261.24” as “Section 721.124”
261.4(a)(20)(v): Corrected the reference “inparagraph” to “in paragraph”	721.104(a)(20)(E): Not necessary, the Board rendered this reference as “in subsection”
261.4(b)(6)(i)(B): Corrected the spelling “exclusively” to “exclusively”	721.104(b)(6)(A)(ii): Not necessary, the Board has already corrected this spelling
261.4(b)(6)(ii): Corrected “specific waste” to plural “specific wastes”	721.104(b)(6)(B): Not necessary, the Board has already corrected this to plural
261.4(b)(6)(ii)(D): Corrected the spelling “crome” to “chrome”	721.104(b)(6)(B)(iv): Not necessary, the Board has already corrected this spelling
261.4(b)(6)(ii)(F): Corrected the spelling “sludes” to “sludges”; corrected “chrometan” to “chrome tan”	721.104(b)(6)(B)(vii): Not necessary, the Board has already corrected the spellings to “sludges” and “chrome tan”

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
261.4(b)(9): Corrected “wood product” to plural “wood products”	721.104(b)(9): Not necessary, the Board has already corrected this to plural
261.4(e)(2)(vi): Corrected the reference “(e)(v)(C)” to “(e)(2)(v)(C)”	721.104(e)(2)(F): Not necessary, the Board has already corrected the corresponding reference to “(e)(2)(E)(iii)”
261.4(e)(3)(i): Corrected the spelling “treatabilty” to “treatability”	721.104(e)(3)(A): Not necessary, the Board has already corrected this spelling
261.6(a)(2)(i): Changed “subpart C” to “40 CFR 266, subpart C”	721.106(a)(2)(A): Not necessary, the Board has already rendered the corresponding reference as “Subpart C of 35 Ill. Adm. Code 726”
261.6(a)(2)(ii): Changed “subpart H” to “40 CFR 266, subpart H”	721.106(a)(2)(B): Not necessary, the Board has already rendered the corresponding reference as “Subpart H of 35 Ill. Adm. Code 726”
261.6(a)(2)(iii): Changed “subpart F” to “40 CFR 266, subpart F”	721.106(a)(2)(C): Not necessary, the Board has already rendered the corresponding reference as “Subpart F of 35 Ill. Adm. Code 726”
261.6(a)(2)(iv): Changed “subpart G” to “40 CFR 266, subpart G”	721.106(a)(2)(D): Not necessary, the Board has already rendered the corresponding reference as “Subpart G of 35 Ill. Adm. Code 726”
261.6(a)(2)(v): Changed “subpart O” to “40 CFR 266, subpart O”	721.106(a)(2)(E): Not necessary, this is a site-specific provision for a facility outside Illinois for which there is no corresponding Illinois provision
261.6(c)(2): Corrected the spelling “rcycled” to “recycled”	721.106(c)(2): Not necessary, the Board has already corrected this spelling
261.21(a)(3): Replace the references to the obsolete USDOT rule 49 CFR 173.300 with the language of the 1980 version of that rule	721.121(a)(3): The Board retained the existing references to the current USDOT regulations as earlier corrected by the Board
261.21(a)(4): Replace the references to the obsolete USDOT rule 49 CFR 173.151 with the language of the 1980 version of that rule, including addition of the language of the 1980 version 49 C.F.R. 173.151a	721.121(a)(4): The Board retained the existing references to the current USDOT regulations as earlier corrected by the Board
261.24(b) table: Change “Table I” to “Table 1” in the table heading	721.124(b) table: Not necessary, the Board never added the table number to the heading
261.31(a) table: Add a footnote “(I,T) should be used to specify mixtures that are ignitable and contain toxic constituents.”	721.131(a) table: The Board added the statement to the Board note appended to the table

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
261.32 “K107”: Correct the spelling “1,1-dimethyl-hydrazine” to “1,1-dimethylhydrazine”	721.132: Not necessary, the Board already corrected the spelling of the chemical name by removing the hyphen
261.32 “K069”: Add a closing parenthesis after “Federal Register”	721.132: Not necessary, the Board never included the parenthetical statement in the Board note appended to the listing
261.33(e): Correct “are subject to be the” to “are subject to the”	721.133(e): Not necessary, the Board has already corrected the language
261.33(e): Add the statement “Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number.” to the note preceding the table	721.133(e): The Board added the statement, changing “Hazardous Waste Number” to “USEPA hazardous waste number”
261.33(e) table “P045”: Correct “2-butanone, 3,3-dimethyl-1-(methylamino)-, O-[methylamino)carbonyl]oxime” to “2-butanone, 3,3-dimethyl-1-(methylamino)-, O-[(methylamino)carbonyl]oxime”	721.133(e) table “P045”: Not necessary, the Board previously changed the brackets to parentheses, so the more appropriate correction is “2-butanone, 3,3-dimethyl-1-(methylamino)-, O-(methylamino)-carbonyl]oxime” to “2-butanone, 3,3-dimethyl-1-(methylamino)-, O-((methylamino)carbonyl]oxime”
261.33(e) table “P194”: Correct the spelling “ethanimidothioc” to “ethanimidothioic”	721.133(e) table “P194”: The Board made the necessary correction
261.33(e) table “P074”: Correct the spelling “cynaide” to “cyanide”	721.133(e) table “P074”: Not necessary, the Board already corrected the spelling of the chemical name
261.33(e) table “numerical list”: Add the table listing the wastes by hazardous waste number	721.133(e) table “numerical listing”: The Board added the table, but changed “list” to “listing” in the heading, and used the chemical names and format as they appear in the preceding table in the Illinois rules
261.33(f): Correct the spelling “manufacturing” to “manufacturing”	721.133(f): Not necessary, the Board has already corrected the language
261.33(f): Add the statement “Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number.” to the note preceding the table	721.133(f): The Board added the statement, changing “Hazardous Waste Number” to “USEPA hazardous waste number”
261.33(f) table “U182”: Correct the hazardous waste number “2” to “U182”	721.133(f) table: Not necessary, the Board has already corrected the number
261.33(f) table “U216”: Correct the empirical formula “Tlcl” to “TlCl”	721.133(f) table: Not necessary, the Board has already corrected the number

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
261.33(f) table “U227”: Add the entry for the alternative name “ethane, 1,1,2-trichloro-”	721.133(f) table: The Board added the entry
261.33(f) table “numerical list”: Add the table listing the wastes by hazardous waste number	721.133(f) table “numerical listing”: The Board added the table, but changed “list” to “listing” in the heading, and used the chemical names and format as they appear in the preceding table in the Illinois rules
261.38 table: Correct “Halogenated Organic” to plural “Halogenated Organics”	721.Appendix Y: Not necessary, the Board has already corrected the sub-heading to the plural
261.38 table “dichloromethoxymethane”: Correct “[Bis(2-chloroethoxy)methane” to “[Bis(2-chloroethoxy)methane]”	721.Appendix Y “dichloromethoxymethane”: Not necessary, the Board previously changed the brackets to parentheses and made the correction using a closing parenthesis
261.38(c)(1)(i)(C)(4): Correct “40 CFR 261.28(c)(10)” to “40 CFR 261.38(c)(10)”	721.38(c)(1)(C)(iv): Not necessary, the Board previously corrected the citation to corresponding “35 Ill. Adm. Code 721.138(c)(10)”
261, appendix VII “F002”: Correct the spelling “trichfluoroethane” to “trichlorofluoroethane”	721.Appendix G “F002”: Not necessary, the Board has already corrected the spelling
261, appendix VII “F038”: Add a comma between “benzo(a)pyrene” and “chrysene”	721.Appendix G “F038”: Not necessary, the Board has already added the comma
261, appendix VII “F039”: Correct the citation “40 CFR 268.43(a)” to “40 CFR 268.43”	721.Appendix G “F039”: Not necessary, the Board has placed the CCW table in a separate appendix
261, appendix VII “K001”: Correct the spelling “creosooto” to “creosote”	721.Appendix G “K001”: Not necessary, the Board has already corrected the spelling
261, appendix VII “K073”: Correct the spelling “hexacholroethane” to “hexachloroethane”	721.Appendix G “K073”: Not necessary, the Board has already corrected the spelling
261, appendix VIII “allyl chloride”: Correct the CAS number “107-18-6” to “107-05-1”	721.Appendix H: The Board made the necessary correction
261, appendix VIII “benzidine”: Correct the spelling “(1,1'-biphenyl)-4,4 ¹ -diamine” to “(1,1'-biphenyl)-4,4'-diamine”	721.Appendix H: Not necessary, the Board has already corrected the spelling
261, appendix VIII “1,2-dichloroethylene”: Correct the spelling “1,2-dichlrol-” to “1,2-dichloro-”	721.Appendix H: Not necessary, the Board has already corrected the spelling
261, appendix VIII “lasiocarpine”: Correct the CAS number “303-34-1” to “303-34-4”	721.Appendix H: The Board made the necessary correction

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
261, appendix VIII “nitrosamines, N.O.S.”: Correct the CAS number “35576-91-1D” to “35576-91-1”	721.Appendix H: Not necessary, the Board has already corrected the CAS number
262.34(a)(1)(iv): Change “the waste is place in containment buildings” to “in containment buildings”	721.Appendix H: Not necessary, the Board has already made this correction
262.34(a)(1)(iv): Change “the waste is place in containment buildings” to “in containment buildings”	722.134(a)(1)(D): Not necessary, the Board has already made this correction
262.53(b): Change the addressee information for the notification; add “attention:” before the required statement for the envelope front	722.153: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
262.56(b): Change the addressee information for the reports	722.156: The Board updated the incorporation of 40 C.F.R. 262.56 by reference in Section 720.111(b)
262.58(a)(1): Add “the Czech Republic,” “Hungary,” “the Slovak Republic,” and “South Korea” to the listing of countries; add the definite article before “Netherlands”	722.158(a)(1): The Board made the additions and added the definite article
262.70: Correct the spelling “consisent” to “consistent”	722.170: Not necessary, the Board has already corrected the spelling
262.81(k): Change the USEPA entity from which the OECD document “C(88)90/Final” is available	722.181 “recovery operations”: Not necessary, since the Board cited the OECD, and not a USEPA office, in Section 720.111(a) for obtaining this document
262.82(a)(1)(ii): Change “Green-list waste” to plural “Green-list wastes”	722.182(a)(1)(B): Not necessary, the Board has used the singular in subsections (a)(1)(A) and (a)(1)(C)
262.83(b)(1)(i): Change the addressee information for the notification	722.182(a)(1)(B): The Board corrected the USEPA office name and address
262.83(b)(2)(i): Change the addressee information for the notification; add “attention:” before the required statement for the envelope front	722.183(b)(2)(A): The Board corrected the USEPA office name and address; the Board added “attention:”
262.84(e): Change the addressee information for the notification	722.184(e): The Board corrected the USEPA office name and address
262.87(a): Change the addressee information for the reports	722.187(a): The Board corrected the USEPA office name and address
262.87(a)(5): Correct “1,000kg” to “1,000 kg”	722.187(a): Not necessary, the Board has already corrected the spelling
262.90(c)(2)(vii): Correct the spelling “newpaper” to “newspaper”	None: This provision pertains only to a facility outside of Illinois

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262.90(d)(2): Correct the spacing in “directed.This” to “directed. This”	None: This provision pertains only to a facility outside of Illinois
264.1(g)(2): Correct the cross-reference “subparts C, D, F, or G” to “subparts C, F, G, or H”	724.101(g)(2): Not necessary, the Board has already corrected the cross-reference
264.4: Correct the spelling “pursuant” to “pursuant”	724.104: Not necessary, the Board has already corrected the spelling
264.13(b)(7)(iii)(B): Change the ending semicolon to a colon	724.113(b)(7)(C)(ii): Not necessary, the Board combined the text of what would have been the two following fifth-level subsections into the text of subsection (b)(7)(C)(ii)
264.17(b): Correct the spelling “reactons” to “reactions”	724.117(b): Not necessary, the Board has already corrected the spelling
264.18(a)(2)(iii): Correct the spelling “Quarternary” to “Quaternary”	724.118(a)(2)(C): The Board corrected the spelling
264.18(b)(2)(iii): Correct the spelling “exeeded” to “exceeded”	724.118(b)(2)(C): Not necessary, the Board has already corrected the spelling
264.97(a)(1): Correct “background water” to “background ground water”	724.197(a)(1): The Board made the correction using “groundwater” in place of “ground water”
264.97(a)(1)(i): Correct “background quality” to “background groundwater quality”	724.197(a)(1): The Board made the correction using “groundwater” in place of “ground water”
264.97(i)(5): Correct the spelling “tha can be” to “that can be”	724.197(i)(5): Not necessary, the Board has already corrected the spelling
264.98(a)(2): Correct the spelling “persistance” to “persistence”	724.198(a)(2): Not necessary, the Board has already corrected the spelling
264.98(g)(4)(i): Correct “concentration or any” to “concentration of any”	724.198(g)(4)(A): Not necessary, the Board has already made the correction
264.99(h)(5): Change the cross-reference “§ 264.98(h)(5)” to “§ 264.98(g)(5)”	724.199(h)(5): The Board corrected the cross-reference
264.101(d): Change “this does not apply” to “this section does not apply”	724.201(d): Not necessary, the Board has already made the correction
264.111(c): Change “this subpart” to “this part”	724.211(c): Not necessary, the Board has already made the correction
264.112(b)(8): Change the cross-reference “264.110(d)” to “264.110(c)”	724.212(b)(8): Not necessary, the Board has already made the correction
264.115: Remove the second ending period on the first sentence	724.215: Not necessary, the Board has already made the correction
264.116: Correct “landfills cells” to “landfill cells”	724.216: The Board made the necessary correction

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264.118(c): Change “§ 264.188(b)(3)” to “§ 264.118(b)(3)”	724.218(c): Not necessary, the Board has already made the correction
264.119(b)(1)(ii): Correct “40 CFR subpart G” to “40 CFR part 264, subpart G”	724.219(b)(1)(B): Not necessary, the Board has already made the correction
264.140(d)(1): Change the cross-reference “264.110(d)” to “264.110(c)”	724.240(d)(1): The Board made the necessary correction
264.142(b)(2): Correct the spelling “mutliplying” to “multiplying”	724.242(b)(2): Not necessary, the Board has already corrected the spelling
264.143(b)(7): Correct “then the penal sum” to “than the penal sum”	724.243(b)(7): Not necessary, the Board has already corrected the spelling
264.143(b)(8): Correct “as evidence by” to “as evidenced by”	724.243(b)(8): The Board made the correction
264.143(e)(5): Correct the spelling “significantly” to “significantly”	724.243(e)(5): Not necessary, the Board has already corrected the spelling; the Board could not find the cited error in the 2006 edition of the federal original
264.145(a)(3)(i): Correct the spelling “anniversay” to “anniversary”	724.245(a)(3)(A): Not necessary, the Board has already corrected the spelling
264.145(d)(6): Correct “issue in an amount” to “issued in an amount”	724.245(d)(6): Not necessary, the Board has already made the correction
264.145(f)(11): Correct “for this section” to “of this section”; correct “the direct of higher-tier” to “the direct or higher-tier”	724.245(f)(11): Not necessary, the Board has already made the corrections
264.147(h)(1): Correct “letter or credit” to “letter of credit”	724.247(h)(1): Not necessary, the Board has already made the correction
264.151(b): Remove the bracket after “State of incorporation.”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(f): Correct “265.143(e)” to “265.145(e)”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(g): Correct “‘nonsudden’ of” to “‘nonsudden’ or”; correct “subpart H or 40 CFR parts 264 or 265” to “subpart H of 40 CFR parts 264 or 265”; change “Current \$” to “Current liabilities”; add an asterisk “(*)” before “10.”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)

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264.151(h)(2): Correct “or which guarantor” to “of which guarantor”; change “[either 264.141(h)]” to “[either 264.141(h) or 264.151(h)]”; add a closing bracket after “[Principal’s]”; correct “Signature of witness of notary” to “Signature of witness or notary”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(i): Correct the spelling “Authorized Representative” to “Authorized Representative”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(j): Correct the spelling “corporation” to “corporation”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(k): Correct “[date] at least one year later]” to “[date at least one year later]”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(l): Change “§ 264.147(h) or § 165.147(h)” to “§ 264.147(i) or § 165.147(i)”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(m)(1): Correct the spelling “accidental” to “accidental”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.151(n)(1): Correct “employee or” to “employee of”; change “Property loaned” to “Property loaned by”; change the semicolon after “the appointment” to a comma; change “reasonable” to “reasonably”	724.251, [720.111]: The Board updated the incorporation of 40 C.F.R. 262.53 by reference in Section 720.111(b)
264.175(b)(1): Correct the spelling “underly” to “underlie”	724.275: The Board corrected “underlay” to “underlie”
264.193(c)(4) note: Correct “subject” to “subject”	724.293(c)(4) Board note: Not necessary, the Board has already made the correction
264.193(d)(4): Add an ending period	724.293(d)(4): Not necessary, the Board has already made the correction
264.193(e)(2)(ii): Change the ending colon to a semicolon	724.293(e)(2)(B): Not necessary, the Board has already made the correction
264.193(e)(2)(iii): Change the ending colon to a semicolon	724.293(e)(2)(C): Not necessary, the Board has already made the correction
264.193(e)(2)(v)(A): Change the cross-reference “§ 262.21” to “§ 261.21”	724.293(e)(2)(E)(i): Not necessary, the Board has already made the correction
264.193(e)(2)(v)(B): Change the cross-reference “§ 262.21” to “§ 261.23”	724.293(e)(2)(E)(ii): Not necessary, the Board has already made the correction

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264.193(e)(2)(v)(B): Change the period after “vapor” to a semicolon and add the ending conjunction “and”	724.293(e)(2)(E)(ii): The Board previously changed to the semicolon; the Board has added the conjunction
264.193(e)(3)(i): Change the ending period to a semicolon	724.293(e)(3)(A): Not necessary, the Board has already made the correction
264.193(e)(3)(ii): Correct the ending colon to a semicolon	724.293(e)(3)(B): Not necessary, the Board has already made the correction
264.193(g)(1)(iii): Change the ending comma to a semicolon	724.293(g)(1)(C): Not necessary, the Board has already made the correction
264.193(g)(1)(iv): Add the missing ending period	724.293(g)(1)(D): Not necessary, the Board has already made the correction
264.193(g)(2)(i)(A): Change the ending comma to a semicolon	724.293(g)(2)(A)(i): Not necessary, the Board has already made the correction by using a semicolon
264.221(c)(1)(i)(B): Correct “ 1×10^{-7} /cm/sec” to “ 1×10^{-7} cm/sec”	724.321(c)(1)(A)(ii): Not necessary, the Board has already made the correction
264.221(c)(1)(ii): Correct “ 1×10^{-1} /cm/sec” to “ 1×10^{-1} cm/sec”; correct “ 1×10^{-4} /m ² sec” to “ 1×10^{-4} m ² /sec”	724.321(c)(1)(B): Not necessary, the Board has already made the correction
264.221(e)(1): Change “EP toxicity characteristics” to “EP toxicity characteristic”	724.321(e)(1): Not necessary, the Board has already made the correction
264.221(e)(2)(i)(B): Add quotation marks before and after “underground source of drinking water”	724.321(e)(2)(A)(i): The Board made the correction
264.221(e)(2)(i)(B): Change “§ 144.3 of this chapter” to “40 CFR 270.2”	724.321(e)(2)(A)(i): Not necessary, the Board has already made the correction by a reference to corresponding 35 Ill. Adm. Code 702.110 for the definition
264.223(b)(1): Change the spelling “exceedence” to “exceedance”	724.323(b)(1): The Board has corrected the spelling
264.226(a)(2): Correct the spelling “imperfections” to “imperfections”	724.326(a)(2): Not necessary, the Board has already corrected the spelling
264.251(a)(2)(i)(A): Correct the spelling “resistent” to “resistant”	724.351(a)(2)(A)(i): Not necessary, the Board has already corrected the spelling
264.252(a): Change “surface impoundment units” to “waste pile units”	724.352(a): The Board made the correction
264.252(b): Remove the comma after “§ 264.254(c)”	724.352(b): Not necessary, the Board has already removed the comma
264.259(b): Remove the comma from between “and” and “F027”	724.359: Not necessary, the Board has already removed the comma
264.280(c)(7): Correct “expect that” to “except that”	724.380(c)(7): Not necessary, the Board has already made the correction

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264.280(d): Correct “closure of post-closure” to “closure or post-closure”	724.380(d): Not necessary, the Board has already made the correction
264.283(a): Remove the comma from between “and” and “F027”	724.383(a): Not necessary, the Board has already removed the comma
264.301(c)(2): Correct “paragraphs (3)(c)(iii) and (iv)” to “paragraphs (c)(3)(iii) and (iv)”	724.401(c)(2): Not necessary, the Board has already made the correction in the citation to the corresponding Illinois rule
264.301(e)(2)(i)(B): Add quotation marks before and after “underground source of drinking water”	724.401(e)(2)(A)(i): The Board made the correction
264.301(e)(2)(i)(B): Change “§ 144.3 of this chapter” to “40 CFR 270.2”	724.401(e)(2)(A)(i): Not necessary, the Board has already made the correction by a reference to corresponding 35 Ill. Adm. Code 702.110 for the definition
264.302(a): Correct “surface impoundment units” to “landfill units”	724.402(a): Not necessary, the Board has already made the correction
264.302(b): Remove the comma after “§ 264.303(c)”	724.402(b): Not necessary, the Board has already removed the comma
264.304(b)(1): Change the spelling “exceedence” to “exceedance”	724.404(b)(1): The Board has corrected the spelling
264.314(e)(2): Add quotation marks before and after “underground source of drinking water”	724.414(e)(2): The Board made the correction
264.314(e)(2): Change “§ 144.3 of this chapter” to “40 CFR 270.2”	724.414(e)(2): Not necessary, the Board has already made the correction by a reference to corresponding 35 Ill. Adm. Code 702.110 for the definition
264.317(a): Correct “in a landfills” to singular “in a landfill”	724.417(a): Not necessary, the Board has already made the correction
264.344(b): Correct “may be be” to “may be”	724.444(b): Not necessary, the Board has already made the correction
264.552(e)(4)(iii): Change the ending colon to a period	724.652(e)(4)(C): Not necessary, the Board has already made the correction
264.552(e)(4)(iv)(F): Correct “40 CFR 260.11(11)” to “40 CFR 260.11(a)(11)”	724.652(e)(4)(D)(vi): Not necessary, the Board has already cited to corresponding 35 Ill. Adm. Code 720.111(a)
264.552(e)(6)(iii)(E): Change “hydrological” to “hydrogeological”	724.652: The Board made the correction
264.553(e): Change “Administrator” to “Regional Administrator”	724.653(e): Not necessary, the Board previously changed this to “Agency”
264.554(a): Change “in according to” to “according to”	724.654(a): Not necessary, the Board previously changed this to “in accordance with”

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264.555(e)(6): Correct the spelling “miminal” to “minimal”	724.655(e)(6): Not necessary, the Board has already corrected the spelling
264.573(a)(1): Correct the spelling “non-earthern” to “non-earthen”	724.673: The Board previously corrected the spelling, using “earthen”; corrected “earthen” to “non-earthen”
264.573(a)(1): Change the ending colon to a semicolon	724.673(a)(1): Not necessary, the Board has already corrected the punctuation
264.573(a)(4)(i): Correct “1x10 ⁻⁷ ” to “1x10 ⁻⁷ ” (twice)	724.673(a)(4)(A): Not necessary, the Board has already corrected this to “1 × 10 ⁻⁷ ”
264.573(a)(4)(i): Change “§ 264.572(a) instead of § 264.572(b)” to “§ 264.572(b) instead of § 264.572(a)”	724.673(a)(4)(i): The Board made the change to corresponding “Section 724.672(b) instead of Section 724.672(a)”
264.573(a)(5): Correct the spelling “perations” to “operations”	724.673(a)(5): Not necessary, the Board has already corrected the spelling
264.573(b): Change “§ 264.572(b) instead of § 264.572(a)” to “§ 264.572(a) instead of § 264.572(b)”	724.673: The Board made the change to corresponding “Section 724.672(a) instead of Section 724.672(b)”
264.573(m)(2): Change “clean up” to “cleanup”	724.673(m)(2): The Board made the correction
264.573(m)(3): Change “clean up” to “cleanup”	724.673(m)(3): The Board made the correction
264.600: Correct the spelling “miscellanenous” to “miscellaneous”	724.700: Not necessary, the Board has already corrected the spelling
264.601(a): Correct the spelling “heath” to “health”	724.701(a): Not necessary, the Board has already corrected the spelling
264.601(b)(11): Correct the spelling “constitutents” to “constituents”	724.701(b)(11): Not necessary, the Board has already corrected the spelling
264.601(c)(4): Correct the spelling “metorologic” to “meteorologic”	724.701(c)(4): Not necessary, the Board has already corrected the spelling
264.1030(c): Correct “owner and operator receives . . . owner and operator is subject” to plural “owner and operator receive . . . owner and operator are subject”	724.930(c): Not necessary, the Board has already corrected this to singular “owner or operator receives . . . owner or operator is subject”
264.1033(f)(2)(vii)(B): Correct the period after “regular” to a comma	724.933(f)(2)(G)(ii): Not necessary, the Board has already corrected the punctuation
264.1034(b)(2): Changed the subsection designation “(2) (6)” to “(2)”	724.934(b)(2): Not necessary, the Board has already made the correction
264.1035(c)(4)(i): Change the period after “760 °C” to a comma	724.935(c)(4)(A): Not necessary, the Board has already corrected the punctuation
264.1035(c)(4)(ii): Add a comma after “greater”	724.935(c)(4)(B): Not necessary, the Board has already added the punctuation

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264.1050(f): Correct “§ 264,1064(g)(6)” to “§ 264.1064(g)(6)”	724.950(f): Not necessary, the Board has already cited to corresponding “Section 724.964(g)(6)”
264.1058(c)(1): Change the period after “detected” to a comma	724.958(c)(1): Not necessary, the Board has already added the punctuation
264.1064(c)(3): Correct “§§ 264.1057(c)” to “§ 264.1057(c)”	724.964(c)(3): Not necessary, the Board has already cited to corresponding “Section 724.957(c)”
264.1080(a): Correct “subparts I, J, or K” to singular “subpart I, J, or K”	724.980(a): Not necessary, the Board has already made the correction
264.1080(c): Correct “owner or operator are subject” to singular “owner or operator is subject”	724.980(c): Not necessary, the Board has already made the correction
264.1090(c): Remove the third sentence, which reiterates the second	724.990(c): Not necessary, the Board has already made the correction
264.1101(b)(3)(iii): Correct “§ 264.193(d)(1)” to “§ 264.193(e)(1)”	724.1101(b)(3)(C): The Board made the necessary correction to corresponding “Section 724.293(e)(1)”
264.1101(c)(3): Change “hazardous waste, must repair” to “hazardous waste, the owner or operator must repair”	724.1101(c)(3): The Board corrected this to “hazardous waste, it must repair” to avoid repetition of “the owner or operator”
264.1101(c)(3)(i): Change “lead” to “led”	724.1101(c)(3)(A): The Board has corrected the previous correction “caused” to “led”
264.1101(d): Change “for containment buildings that contain areas both” to singular “for a containment building that contains both areas”	724.1101(d): Having previously change to the singular “for a containment building that contains,” the Board has changed “areas both” to “both areas”
264.1102(a): Remove the comma after “etc.”	724.1102(a): Not necessary; the Board made previously made the necessary correction, adding a comma after the parenthetical “(liners, etc.)” to separate elements of a series
264, appendix I, table 1: Add a table of unit of measure codes at the end of the table	724.Appendix A: The Board updated the incorporation of 40 C.F.R. 264, appendix I by reference in Section 720.111(b)
264, appendix I, table 2, Section 2.(d): Correct “T75 Tricking filter” to “T75 Trickling filter”	724.Appendix A: The Board updated the incorporation of 40 C.F.R. 264, appendix I by reference in Section 720.111(b)
265.1(c)(4)(i): Remove the introductory clause “as Stated in paragraph (c)(2) of this section”	725.101(c)(4)(A): Not necessary, the Board did not include this provision, which does not apply in Illinois

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265.1(c)(6): Correct the cross-reference “subparts C, D, F, or G” to “subparts C, F, G, or H”	725.101(c)(6): Not necessary, the Board has already corrected the cross-reference
265.12(a)(1): Change “of the date of the waste” to “of the date the waste”	725.112(a)(1): Not necessary, the Board has already made the correction
265.14(b)(1): Change “guards of facility personnel” to “guards or facility personnel”	725.114(b)(1): Not necessary, the Board has already made the correction
265.16(b): Correct the spelling “successfully” to “successfully”	725.117(b): Not necessary, the Board has already corrected the spelling
265.19(c)(2): Change “264.254(c)(1)” to “264.251(c)(1)”	725.119(c)(2): The Board corrected the cross-reference to corresponding “724.351(c)(1)”
265.56(b): Correct “a real extent” to “areal extent”	725.156(b): The Board made the necessary correction
265.90(d): Remove the comma after “he may”	725.190(d): Not necessary, the Board already removed the comma after changing “he may” to “it may”
265.110(b)(4): Change “building” to plural “buildings”	725.210(b)(4): Not necessary, the Board has already made the correction
265.111(c): Change “264.1102” to “265.1102”	725.211(c): Not necessary, the Board has already corrected the cross-reference to corresponding “725.1102”
265.112(b)(5): Change “partial and final closure period” to plural “partial and final closure periods”	725.212(b)(5): The Board corrected the cross-reference to corresponding “725.351(c)(1)”
265.112(d)(4): Correct “§§ with 265.111 . . . part, §§ 265.197 . . . 264.1102” to “§§ 265.111 . . . part, and §§ 265.197”	725.212(d)(4): Not necessary, the Board has already corrected the cross-reference to corresponding “Sections 725.211 . . . , 725.297”
265.112(d)(4): Correct “264.1102” to “265.1102”	725.212(d)(4): The Board corrected the cross-reference to corresponding “725.1101”
265.113(b): Correct the spelling “extenstion” to “extension”	725.213(b): Not necessary, the Board has already made the correction
265.113(e)(4): Correct the spelling “oonstituents” to “constituents”	725.213(e)(4): Not necessary, the Board has already made the correction
265.117(b): Correct the spelling “Administrator” to “Administator”	725.217(b): Not necessary, the Board used “Agency” in place of “Administrator”
265.119(b)(1)(ii): Correct “40 CFR subpart G” to “40 CFR part 265, subpart G”	725.219(b)(1)(B): Not necessary, the Board has already corrected the cross-reference to corresponding “Subpart G of this Part”
265.140(b): Change “265.146” to “265.145”	725.240(b): The Board made the necessary correction

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265.140(b)(2): Change “§ 264.197” to “§ 265.197”	725.240(b)(2): Not necessary, the Board has already corrected the cross-reference to corresponding “Section 725.297”
265.142(a): Remove the cross-reference to “265.178”	725.242(a): The Board made the necessary correction
265.145(e)(11): Change “for this section” to “of this section”	725.245(e)(11): Not necessary, the Board has already made the correction
265.145(e)(11): Correct “direct of higher-tier” to “direct or higher-tier”	725.245(e)(11): Not necessary, the Board has already made the correction
265.145(e)(11): Change “(f)(1) through (9)” to “(e)(1) through (9)”	725.245(e)(11): Not necessary, the Board has already corrected the cross-reference to corresponding “(e)(1) through (e)(9)”
265.145(e)(11): Change “(f)(3)” to “(e)(3)”	725.245(e)(11): Not necessary, the Board has already corrected the cross-reference to corresponding “(e)(3)”
265.147(a)(1)(i): Change “Regional Administrator, or Regional Administrator if facilities” to plural “Regional Administrator, or Regional Administrators if the facilities”	725.247(a)(1)(A): Not necessary, the Board changed “Regional Administrator, or Regional administrator if facilities are located in more than one Region” to “Agency”
265.147(b)(1)(i): Restore text relating to amendment of insurance policy, which has been missing since the 1988 edition of the <i>Code of Federal Regulations</i>	725.247(b)(1)(A): Not necessary, the Board never deleted the text
265.147(b)(1)(ii): Restore text relating to qualifications of insurer, which has been missing since the 1988 edition of the <i>Code of Federal Regulations</i>	725.247(b)(1)(B): Not necessary, the Board never deleted the text
265.174: Delete “and the containment system”	725.274: The Board made the necessary correction
265.193(e)(2)(v)(A): Change “§ 262.21” to “§ 261.21”	725.293(e)(2)(E)(i): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 721.121”
265.193(e)(2)(v)(B): Change “§ 262.21” to “§ 261.23”	725.293(e)(2)(E)(ii): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 721.123”
265.193(i)(2): Correct “tanks surfaces” to “tank surfaces”	725.293(i)(2): The Board made the necessary correction
265.194(b)(1): Add a period after “e.g”	725.294(b)(1): Not necessary, the Board has already corrected the punctuation

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265.194(b)(1): Add a period after “e.g”	725.294(b)(1): Not necessary, the Board has already corrected the punctuation
265.197(b): Add a period after “(265.310)”	725.297(b): Not necessary, the Board has already corrected the punctuation
265.201(c): Change “hazardous in tanks” to “hazardous waste in tanks”	725.301(c): Not necessary, the Board has already made the correction
265.221(a): Change “leachate collection and removal system above and between the liners” to “leachate collection and removal system between the liners”	725.321(a): Not necessary, the Board has already made the correction
265.221(d)(2)(i)(A): Change “in leaking” to “is leaking”	725.321(d)(2)(A)(i): Not necessary, the Board has already made the correction
265.221(d)(2)(i)(A): Change “soil it is not” to “soil is not”	725.321(d)(2)(A)(i): Not necessary, the Board has already made the correction
265.221(d)(2)(i)(A): Change “the owner of operator” to “the owner or operator”	725.321(d)(2)(A)(i): Not necessary, the Board has already made the correction
265.221(d)(2)(i)(B): Add quotation marks before and after “underground source of drinking water”	725.321(d)(2)(A)(ii): The Board made the correction
265.221(d)(2)(i)(B): Change “§ 144.3 of this chapter” to “40 CFR 270.2”	725.321(d)(2)(A)(ii): Not necessary, the Board has already made the correction by a reference to corresponding 35 Ill. Adm. Code 702.110 for the definition
265.224(b)(1): Change the spelling “exceedence” to “exceedance”	725.324(b)(1): The Board has corrected the spelling
265.228(a)(2)(iii)(D): Correct the spelling “accomodate” to “accommodate”	725.328(a)(2)(C)(iv): Not necessary, the Board has already corrected the spelling
265.228(b)(2): Change “§§ 265.221(c)(2)(iv)” to “§§ 264.221(c)(2)(iv)”	725.328(b)(2): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 724.321(c)(2)(D)”
265.229: Remove paragraph (b)(2) and redesignate paragraphs (b)(3) and (b)(4) to (b)(2) and (b)(3), which has been part of the text since the 1992 edition of the <i>Code of Federal Regulations</i>	725.329: Not necessary, the Board never added the text
265.255(b): Change “surface impoundment units” to “waste pile units”	725.355(b): The Board made the correction
265.259(b)(1): Change the spelling “exceedence” to “exceedance”	725.359(b)(1): The Board has corrected the spelling
265.280(a)(4): Correct the spelling “gowth” to “growth”	725.380(a)(4): Not necessary, the Board has already corrected the spelling

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265.281(a)(1): Change “§ 265.21” to “§ 261.21”	725.381(a)(1): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 721.121”
265.301(a): Change “§ 264.301(d), (e), or (f)” to “§ 264.301(c), unless exempted under § 264.301(d), (e), or (f)”	725.401(a): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 724.401(c), unless exempted by 35 Ill. Adm. Code 724.401(d), (e), or (f)”
265.301(d)(1): Change “such waste does not” to plural “such wastes do not”	725.401(d)(1): The Board made the correction
265.301(d)(1): Change “§ 261.4” to “§ 261.24”	725.401(d)(1): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 721.124”
265.301(d)(1): Change “Hazardous Waste Number” to plural “Hazardous Waste Numbers”	725.401(d)(1): The Board made the correction to “USEPA hazardous waste numbers”
265.301(d)(2)(i)(B): Add quotation marks before and after “underground source of drinking water”	725.401(d)(2)(A)(ii): The Board made the correction
265.301(d)(2)(i)(B): Change “§ 144.3 of this chapter” to “40 CFR 270.2”	725.401(d)(2)(A)(ii): Not necessary, the Board has already made the correction by a reference to corresponding 35 Ill. Adm. Code 702.110 for the definition
265.302(b): Change “surface impoundment units” to “landfill units”	725.402(b): Not necessary, the Board has already made the correction
265.303(b)(1): Change the spelling “exceedence” to “exceedance”	725.403(b)(1): The Board has corrected the spelling
265.312(a)(1): Change “dissolution or material” to “dissolution of material”	725.412(a)(1): Not necessary, the Board has already made the correction
265.314(e)(1)(ii): Correct the spelling “polysobutylene” to “polyisobutylene”	725.414(e)(1)(B): Not necessary, the Board has already corrected the spelling
265.314(f)(2): Add quotation marks before and after “underground source of drinking water”	725.414(f)(2): The Board made the correction
265.314(f)(2): Change “§ 144.3 of this chapter” to “40 CFR 270.2”	725.414(f)(2): Not necessary, the Board recited the Illinois prohibition against liquids in landfills in place of the federal provision
265.316: Correct the spelling “landfull” to “landfill”	725.416: Not necessary, the Board has already corrected the spelling
265.316(c): Correct “container’s” to plural “containers”	725.416(c): Not necessary, the Board has already made the correction

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265.316(d): Change “§ 261.10(a)” to “§ 260.10”	725.416(d): Not necessary, the Board has already made the correction to corresponding “35 Ill. Adm. Code 260.110”
265.405(a)(1): Change “§ 261.21 or 261.23” to “§§ 261.21 or 261.23”	725.505(a)(1): The Board did not make the correction, since the cross-reference is actually singular
265.441(c): Change “state Director” to capitalized “State Director”	725.541(c): Not necessary, the Board had changed this to “Agency”
265.443(a)(4)(i): Change “§ 265.442(a) instead of § 265.442(b)” to “§ 265.442(b) instead of § 265.442(a)”	725.543(a)(4)(A): The Board made the change to corresponding “Section 725.542(b) instead of Section 725.542(a)”
265.443(b): Change “§ 265.442(b) instead of § 265.442(a)” to “§ 265.442(a) instead of § 265.442(b)”	725.543(b): The Board made the change to corresponding “Section 725.542(a) instead of Section 725.542(b)”
265.445(b): Change “post/closure care” to “post-closure care”	725.545(b): Not necessary, the Board has already made the correction
265.1033(f)(2)(ii): Change the period after “±5 °C” to a period	725.933(f)(2)(B): Not necessary, the Board has already made corrected the punctuation
265.1035(b)(2): Change the period after “§ 265.1032” to a comma	725.935(b)(2): Not necessary, the Board has already made corrected the punctuation
265.1035(b)(2)(i): Change “annual throughput end operating hours” to “annual throughput and operating hours”	725.935(b)(2)(A): Not necessary, the Board has already made the correction
265.1035(c)(4)(i): Change the period after “760 °C” to a comma	725.935(c)(4)(A): Not necessary, the Board has already made corrected the punctuation
265.1063(b)(4)(ii): Correct “10.000” to “10,000”	725.963(b)(4)(B): Not necessary, the Board has already made the correction
265.1080: Correct “subparts I, J, or K” to singular “subpart I, J, or K”	725.980: Not necessary, the Board has already made the correction
265.1085(h)(3): Correct “either or the following” to “either of the following”	725.985(h)(3): Not necessary, the Board has already made the correction
265.1087(b): Designate the text following the heading “General” as paragraph (b)(1)	725.987(b): Not necessary, the Board has already made the correction
265.1090(f)(1): Change “§ 265.1084(c)(2)(i)” to “§ 265.1083(c)(2)(i)”	725.990(f)(1): The Board made the change to corresponding “Section 725.983(c)(2)(A)”
265.1100(d): Change “permit” to “prevent”	725.1100(d): The Board made the correction
265.1101(b)(3)(i)(B): Correct the spelling “trasmissivity” to “transmissivity”	725.1101(b)(3)(A)(ii): Not necessary, the Board has already corrected the spelling
265.1101(b)(3)(iii): Change “§ 265.193(d)(1)” to “§ 265.193(e)(1)”	725.1101(b)(3)(C): The Board made the correction

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265.1101(c)(3): Change “hazardous waste, must repair” to “hazardous waste, the owner or operator must repair”	725.1101(c)(3): The Board corrected this to “hazardous waste, it must repair” to avoid repetition of “the owner or operator” within the same sentence
265.1101(d): Change “for containment” to “for a containment”	725.1101(d): The Board made the correction
264, appendix I: Add entries o “pounds,” “short tons,” “kilograms,” and “tons” at the end of the table	725.Appendix A, [720.111]: The Board updated the incorporation of appendix I to 40 C.F.R. 265 by reference in Section 720.111(b)
264, appendix I: Change “T75 Tricking filter” to “T75 Trickling filter”	725.Appendix A, [720.111]: The Board updated the incorporation of appendix I to 40 C.F.R. 265 by reference in Section 720.111(b)
264, appendix I: Change “Miscellaneous (Subpart X)” to “Miscellaneous”	725.Appendix A, [720.111]: The Board updated the incorporation of appendix I to 40 C.F.R. 265 by reference in Section 720.111(b)
264, appendix I: Change “X99 Other Subpart X (specify)” to “X99 Other (specify)”	725.Appendix A, [720.111]: The Board updated the incorporation of appendix I to 40 C.F.R. 265 by reference in Section 720.111(b)
264, appendix V: Correct the spelling “alkaline caustic liquids” to “alkaline caustic liquids”	725.Appendix E, [720.111]: The Board updated the incorporation of appendix V to 40 C.F.R. 265 by reference in Section 720.111(b)
264, appendix V: Correct “lime sludge and other corrosive alkalines” to “lime sludge and other corrosive alkalis”	725.Appendix E, [720.111]: The Board updated the incorporation of appendix V to 40 C.F.R. 265 by reference in Section 720.111(b)
264, appendix VI “dichlorvos”: Change the CAS number “62737” to “62-73-7”	725.Appendix F: Not necessary, the Board has already made the correction
264, appendix VI “ethylene thiourea”: Change the CAS number “9-64-57” to “96-45-7”	725.Appendix F: The Board made the correction
264, appendix VI “neopentyl glycol”: Correct the spelling “dimethylolpropane” to “dimethylpropane”	725.Appendix F: The Board did not make this correction, since “dimethylolpropane” is the appropriate alternative chemical name
264, appendix VI “1,3-propane sulfone”: Correct the spelling “sulfone” to “sultone”	725.Appendix F: The Board did not make this correction, since “sulfone” is the appropriate spelling
266.70(a): Correct the spelling “paladium” to “palladium”	726.170(a): Not necessary, the Board has already corrected the spelling

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266.70(a): Correct the spelling “irridium” to “iridium”	726.170(a): Not necessary, the Board has already corrected the spelling
266.80(a) table (1): Add a comma after “(except for § 262.11)”	726.180(a)(1): Not necessary, the Board has already corrected the punctuation
266.80(a) table (2): Add a comma after “(except for § 262.11)”	726.180(a)(2): The Board made the correction
266.80(a) table (3): Add a comma after “(except for § 262.11)”	726.180(a)(3): The Board made the correction
266.80(a) table (5): Add a comma after “(except for § 262.11)”	726.180(a)(5): The Board made the correction
266.100(b)(2)(iv): Change “§ 266.212” to “§ 266.112”	726.200(b)(2)(D): The Board made the change to corresponding “Section 726.212”
266.100(d)(3)(i)(A): Change “appendix IX” to “appendix XI”	726.200(d)(3)(A)(i): Not necessary, the Board has already changed the cross-reference to corresponding “Appendix K”
266.100(g): Correct the spelling “paladium” to “palladium”	726.200(g): Not necessary, the Board has already corrected the spelling
266.100(g): Correct the spelling “irridium” to “iridium”	726.200(g): Not necessary, the Board has already corrected the spelling
266.102(a)(2)(vi): Change “(Corrective Action)” to “(Releases for Solid Waste Management Units)”	726.202(a)(2)(F): The Board made the correction
266.102(e)(3)(i)(E): Change “§ 266.111(b)” to “§ 266.105(a)”	726.202(e)(3)(A)(v): The Board made the change to corresponding “Section 726.205(a)”
266.102(e)(5)(i)(C): Correct the spelling “chorline” to “chlorine”	726.202(e)(5)(A)(iii): Not necessary, the Board has already corrected the spelling
266.102(e)(5)(i)(C): Correct the spelling “feestocks” to “feedstocks”	726.202(e)(5)(A)(iii): Not necessary, the Board has already corrected the spelling
266.102(e)(6)(ii)(B)(2): Change “of preceding” to “of the preceding”	726.200(i) “one hour block average”: Not necessary, the Board has already made the correction
266.102(e)(8)(iii): Correct “values” to “valves”	726.202(e)(8)(C): The Board made the correction
266.103(a)(4)(vii): Change “265.147-265.151” to “265.147-265.150”	726.203(a)(4)(G): The Board corrected the cross-reference to corresponding “725.247 through 725.250”
266.103(b)(2)(v)(B)(2): Correct the spelling “meterological” to “meteorological”	726.203(b): Not necessary, the Board never adopted a counterpart to this provision
266.103(b)(5)(ii)(A): Correct “on a hourly” to “on an hourly”	726.203(b): Not necessary, the Board never adopted a counterpart to this provision
266.103(b)(6)(viii)(A): Correct the spelling “Ageny” to “Agency”	726.203(b): Not necessary, the Board never adopted a counterpart to this provision

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266.103(c)(1)(i): Remove the words “and the total chlorine and chloride feed rate screening limits under § 266.107(b) or (e)”	726.203(c)(1)(A): Not necessary, the Board has already removed the words
266.103(c)(1)(ii)(A)(2): Correct the spelling “feedsteams” to “feedstreams”	726.203(c)(1)(B)(i): Not necessary, the Board has already corrected the spelling
266.103(c)(1)(ix)(A): Correct the spelling “ration” to “ratio”	726.203(c)(1)(I)(i): Not necessary, the Board has already corrected the spelling
266.103(c)(4)(iv)(C)(I): Correct “on a hourly” to “on an hourly”	726.203(c)(4)(D)(iii)(I): Not necessary, the Board has already made the correction
266.103(c)(1)(ix): Add the words “and the total chlorine and chloride feed rate screening limits under § 266.107(b) or (e)”	726.203(c)(1)(I): Not necessary, the Board has already made the correction with the corresponding words “and the total chlorine and chloride feed rate screening limits under Section 726.207(b)(1) or (e)”
266.103(g)(1)(i): Correct “on a hourly” to “on an hourly”	726.203(g)(1)(A): The Board made the correction
266.106(d)(1): Remove the second appearance of the words “dispersion modeling to predict the maximum annual average off-site ground level concentration for each	726.206(d)(1): Not necessary, the Board has already made the correction
266.109(a)(2)(ii): Correct the spelling “constituent” to “constituent”	726.209(a)(2)(B): Not necessary, the Board has already corrected the spelling
266.109(b): Correct “particular” to particulate”	726.209(b): The Board made the correction
266, Subpart N heading: Change “Treatment and Disposal” to “Treatment, Transportation and Disposal”	726.Subpart N heading: Not necessary, the Board has already made the correction
266, appendix III: Correct “Cl ₂ ” to “Cl ₂ ” (three times)	726.Appendix C: Not necessary, the Board used “Chlorine gas” in place of “Cl ₂ ”
266, appendix III: Correct “HC1” to “HCl”	726.Appendix C: Not necessary, the Board has already made the correction
266, appendix IV: Correct the spelling “maleic anhydride” to “maleic anhydride”	726.Appendix D: Not necessary, the Board has already corrected the spelling
266, appendix IV: Correct “2.4.5-trichlorophenol” to “2,4,5-trichlorophenol”	726.Appendix D: The Board made the correction
266, appendix V: Correct “(m ³ /μg)” to “(m ³ /μg)”	726.Appendix E: Not necessary, the Board has made the correction and changed this to “(m ³ /mg)”
266, appendix V: Correct “(μg/m ³)” to “(μg/m ³)”	726.Appendix E: Not necessary, the Board has made the correction and changed this to “(mg/m ³)”

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266, appendix V: Correct the spelling “benzene” to “benzene”	726.Appendix E: Not necessary, the Board has already corrected the spelling
266, appendix V: Correct the spelling “hexachlorodibenzo-p-dioxin” to “hexachlorodibenzo-p-dioxin”	726.Appendix E: Not necessary, the Board has already corrected the spelling
266, appendix VI: Correct “(m ³ /s)” to “(m ³ /s)”	726.Appendix F: Not necessary, the Board has made the correction and changed this to “(m ³ /sec)”
266, appendix VIII: Correct the spelling “plychlorinated” to “polychlorinated”	726.Appendix H: Not necessary, the Board has already corrected the spelling
266, appendix IX table of contents at 4.0: Change “Estimating Toxicity Equipment or” to “Estimating the Toxicity Equivalence of”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX table of contents at 9.2: Change “Cl” to “Cl ₂ ”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX table of contents at 10.4: Correct the spelling “overview” to “overview”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 2.1.2.9: Change “PA test” to “RA test”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 2.1.2.10: Correct “O ² ” to “O ₂ ”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX table 2.1-1, footnote 1: Correct “or twice the permit limit” to “of twice the permit limit”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 2.1.4.6: Change “PA test” to “RA test”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 2.2.10: Correct “used In conjunction” to “used in conjunction”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)

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266, appendix IX section 4.0 title: Correct the spelling “dibenco-” to “dibenzo-”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 5.0 step 6, footnote 5: Remove the comma after “urban and rural areas”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 5.0 table 5.0-5 for distance “10.00”: Change “9.4” to “29.4”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 5.0 step 7(B): Add a closing parenthesis after “(identified in Step 7(A))”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 5.0 table step 10(D)1: Correct “>0,5-2.5” to “>0.5-2.5”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 5.0 below table 5.0-6: Change “C ^a (μg/m ³)” to “C _a (μg/m ³)”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 5.0 below table 5.0-6: Change “C _A (μg/m ³)” to “C _a (μg/m ³)”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 6.2: Change “Within These” to “Within these”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 7.1: Correct the spelling “mulitple” to “multiple”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 7.2: Correct “this, if” to “thus, if”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)

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266, appendix IX section 8.0: Correct the spelling “chorine” to “chlorine”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 9.2: Correct “Cl2” to “Cl ₂ ”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 10.3: Change the period to a comma after “to avoid this expense”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 10.5(2): Change the period in “hazardous wastes. and in” to “hazardous wastes, and in”	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix IX section 2.1.2.9:	726.Appendix I, [720.111]: The Board updated the incorporation of appendix IX to 40 C.F.R. 266 by reference in Section 720.111(b)
266, appendix XIII: Correct “levels or mercury” to levels of mercury”	726.Appendix M: Not necessary, the Board has already made the correction
267.147(f)(2)(i)(A): Change “§ 267 and also § 264 or § 265” to “part 267 and also part 264 or part 265”	727.240(p)(1)(A): Not necessary, the Board has already corrected this cross-reference to corresponding “this Part 727 and 35 Ill. Adm. Code 724 or 725”
268.2(g): Change “A manufactured” to lower-case “a manufactured”	728.102 “debris”: Not necessary, the Board has already made the correction
268.2(g): Change “Any material” to lower-case “any material”	728.102 “debris”: Not necessary, the Board has already made the correction
268.2(g): Change “Process residuals” to lower-case “process residuals”	728.102 “debris”: Not necessary, the Board has already made the correction
268.2(g): Change “Intact” to lower-case “intact”	728.102 “debris”: Not necessary, the Board has already made the correction
268.4(a)(3): Correct “subpart F of part 264 or part 264” to “subpart F of part 264 or part 265”	728.104(a)(3): The Board corrected the cross-reference to corresponding “Subpart F of 35 Ill. Adm. Code 724 or Subpart F of 35 Ill. Adm. Code 725”
268.6(c)(5): Correct “section meet” to singular “section meets”	728.106(c)(5): Not necessary; the Board already corrected this to “section must meet”
268.7(a)(1): Add a closing parenthesis after the sentence “(Alternatively, the generator . . . paragraph (b) of this section.”	728.107(a)(1): The Board corrected the punctuation

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268.7(a)(3)(ii): Add the word “column” after “information in”	728.107(a)(3)(B): Not necessary, the Board has already made the correction
268.7(a)(3)(ii): Add a closing quotation mark after “268.7(a)(3)”	728.107(a)(3)(B): Not necessary, the Board has already made the correction
268.7(a)(4) table: Add a closing bracket after “[is subject to/complies with”	728.Appendix I: Not necessary, the Board has already made the correction using parentheses for brackets
268.7(b)(3)(ii) entry 5: Add a closing quotation mark after “268.49(c)”	728.107(b)(3)(B)(v): Not necessary, the Board has already made the correction
268.7(b)(4)(ii): Change “§ 261.3(e)” to “§ 261.3(f)”	728.107(b)(4)(B): The Board corrected the cross-reference to corresponding “35 Ill. Adm. Code 721.103(f)”
268.7(c)(2): Remove the closing parenthesis mark after “Leaching Procedure”	728.107(c)(2): The Board earlier removed the closing parenthesis mark after the end of the reference description, but now moves the parenthesis mark after “Leaching Procedure” to follow the reference information
268.7(d): Change “§ 261.3(e)” to “§ 261.3(f)”	728.107(d): The Board corrected the cross-reference to corresponding “35 Ill. Adm. Code 721.103(f)”
268.7(d)(1): Remove the duplicate statement “or State authorized to implement part 268 requirements” and the offsetting comma	728.107(d)(1): Not necessary, the Board never added the phrase
268.7(d)(1): Add the missing subordinate paragraphs (d)(1)(i) through (d)(1)(iii)	728.107(d)(1): Not necessary, the Board never omitted corresponding subsections (d)(1)(A) through (d)(1)(C)
268.7(d)(2): Change “§ 261.3(e)(1)” to “§ 261.3(f)(1)”	728.107(d)(2): The Board change the cross-reference to corresponding “35 Ill. Adm. Code 721.103(f)(1)”
268.7(d)(3): Change “§ 261.3(e)(1)” to “§ 261.3(f)(1)”	728.107(d)(3): The Board change the cross-reference to corresponding “35 Ill. Adm. Code 721.103(f)(1)”
268.14(b): Correct “not withstanding” to “notwithstanding”	728.114(b): Not necessary, the Board has already made the correction
268.14(c): Correct “not withstanding” to “notwithstanding”	728.114(c): Not necessary, the Board has already made the correction
268.40(g): Correct the spelling “definded” to “defined”	728.140(g): Not necessary, the Board has removed this obsolete provision, which expired by its own terms on March 4, 1999
268.40 table column heading: Change “concentration in mg/L ³ ” to “concentration ³ in mg/L”	728.Table T: The Board made the correction

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
268.40 table column heading: Change “concentration in mg/kg ⁵ ” to “concentration ⁵ in mg/kg”	728.Table T: The Board made the correction
268.40 table “K047”: Correct “water from TNT” to “water from TNT”	728.Table T “K047”: Not necessary, the Board has already made the correction
268.40 table “K049,” “chrysene”: Correct “2218-01-9” to “218-01-9”	728.Table T “K049”: Not necessary, the Board has already corrected the CAS number
268.40 table “K051,” “chrysene”: Correct “2218-01-9” to “218-01-9”	728.Table T “K051”: Not necessary, the Board has already corrected the CAS number
268.40 table “K088”: Correct the spelling “bemz(a)anthracene” to “benz(a)anthracene”	728.Table T “K088”: Not necessary, the Board has already corrected the spelling
268.40 table “K088”: Correct “indeno(1,2,3-c,d)pyrene” to “indeno(1,2,3-cd)pyrene”	728.Table T “K088”: The Board made the correction
268.40 table “K111,” “2,4-dinitrotoluene”: Correct “121-1-2” to “121-14-2”	728.Table T “K111”: The Board made the correction
268.40 table “K114”: Correct the spelling “dinitortolune” to :dinitrotoluene”	728.Table T “K114”: Not necessary, the Board has already corrected the spelling
268.40 table “K156,” “acetophenone”: Correct “96-86-2” to “98-86-2”	728.Table T “K156”: The Board made the correction
268.40 table “K156,” “triethylamine”: Correct “101-44-8” to “121-44-8”	728.Table T “K156”: Not necessary, the Board has already made the correction
268.40 table “U202” “acetone”: Correct “U202” to “U002”	728.Table T “U002”: Not necessary, the Board has already made the correction
268.40 table “U134”: Correct “16984-48-8” to “7664-39-3”	728.Table T “U134”: The Board made the correction
268.40 table “U137”: Correct “indeno(1,2,3-c,d)pyrene” to “indeno(1,2,3-cd)pyrene” (twice)	728.Table T “U137”: The Board made the correction
268.42(a) table 1 “SSTRP”: Move the comma in “as well as, temperature and pressure ranges have” to “as well as temperature and pressure ranges, have”	728.Table C: The Board moved the comma
268.42(a) table 1 “SSTRP”: Add a comma after “parameters of the unit”	728.Table C: The Board added the comma
268.42(a) table 1 “SSTRP”: Remove the comma from “thus, resulting”	728.Table C: The Board removed the comma
268.44(c) certification statement: change “I am aware that these are” to “I am aware that there are”	728.144(c): Not necessary, the Board has already made the correction
268.45 table 1 item B.1.: Correct the spelling “biodegration” to “biodegradation”	728.Table F item B.1.: The Board corrected the spelling
268.45 table 1 item B.2.a.: Correct the spelling “electolytic” to “electrolytic”	728.Table F item B.1.: Not necessary, the Board has already corrected the spelling

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268.45 table 1 item B.2.a.: Remove the hyphen from “perman-ganates”	728.Table F item B.1.: Not necessary, the Board has already removed the hyphen
268.48 table column heading: Change “concentration in mg/L ² ” to “concentration ² in mg/L”	728.Table U: The Board made the correction
268.48 table column heading: Change “concentration in mg/kg ⁵ ” to “concentration ⁵ in mg/kg”	728.Table U: The Board made the correction
268.48 table “1,2,3,4,6,7,8-heptachlorodibenzofuran”: Correct “67562-39-5” to “67562-39-4”	728.Table U: Not necessary, the Board has already made the correction
268.48 table “1,2,3,4,7,8,9-heptachlorodibenzofuran”: Correct the “1,2,3,4,6,7,8-heptachlorodibenzofuran” to “1,2,3,4,7,8,9-heptachlorodibenzofuran”	728.Table U: Not necessary, the Board has already made the correction
268.49(d): Correct the spelling “flouride” to “fluoride”	728.149(d): Not necessary, the Board has already corrected the spelling
268.50(c): Correct “a owner/operator” to “an owner/operator”	728.150(c): Not necessary, the Board has already corrected this to “an owner or operator”
268.50(g): Correct “requirements in this do not” to “requirements in this section do not”	728.150(g): Not necessary, the Board has already made the correction
268, appendix VIII: Remove the duplicate entry for “K011 nonwastewater”	728.Appendix H: Not necessary, the Board has already removed the duplicate entry
268, appendix VIII: Remove the duplicate entry for “K011 wastewater”	728.Appendix H: Not necessary, the Board has already removed the duplicate entry
270.1(a)(1) table: Correct the spelling “indentification” to “identification”	702.101: Not necessary, the Board never incorporated this table into the Illinois regulations
270.1(b): Correct the spelling “analogous” to “analogous”	703.100: Not necessary, the Board never incorporated this segment of text into the Illinois regulations
270.1(c)(1)(iii): Correct “it they” to “if they”	703.122(c): Not necessary, the Board has already made the correction
270.1(c)(3)(i): Correct “an RCRA permit” to “a RCRA permit”	703.124(a): Not necessary, the Board has already made the correction
270.2 “on-site”: Correct the spelling “continguous” to “contiguous”	702.110: Not necessary, the Board has already corrected the spelling
270.2 “publicly owned treatment works”: Correct the spelling “unsed” to “used”	702.110: Not necessary, the Board never adopted the federal definition, instead using a cross-reference to the wastewater pretreatment regulations for a definition

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270.10(j)(1): Correct “treats, stores, or dispose of” to “treats, stores, or disposes”	703.186: Not necessary, the Board has already corrected this to “treats, stores, or disposes of”
270.11(d)(1): Change “paragraph (a) or (b) of this must” to “paragraph (a) or (b) of this section must”	702.126: Not necessary, the Board has already corrected this to “subsection (a) or (b) of this Section”
270.11(d)(2): Change “on information and belief” to “to the best of my knowledge and belief”	702.126(d)(2): Not necessary, the Board has already made the correction
270.13(k)(7): Correct the spelling “sancturies” to “sanctuaries”	702.123(f)(7): Not necessary, the Board has already corrected the spelling
270.14(a): Change “design drawings and specification” to plural “design drawings and specifications”	703.182: Not necessary, the Board has already made the correction
270.14(b)(11)(ii)(B): Change “with 200 feet” to “within 200 feet”	703.184: Not necessary, the Board never adopted a counterpart to 40 C.F.R. 270.14(b)(11)(ii), which pertains only to seismic zones outside Illinois
270.14(b)(19)(iii): Correct the spelling “intermittant” to “intermittent”	703.183(s)(3): Not necessary, the Board has already corrected the spelling
270.14(b)(21): Correct the spelling “uner” to “under”	703.183(u): Not necessary, the Board has already corrected the spelling
270.17(f): Correct “detailed-plans” to “detailed plans”	703.203(f): Not necessary, the Board has already made the correction
270.18(b): Correct “§ 264.90(2)” to “§ 264.90(b)(2)”	703.204(b): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code . . . 724.190(b)(2)”
270.20(i)(2): Correct the spelling “attenuative” to “attenuative”	703.208(i)(2): Not necessary, the Board has already corrected the spelling
270.26(c)(15): Correct “paragraphs (a) through(f) § 264.573” to “paragraphs (a) through (f) of § 264.573”	703.212(c)(15): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 724.673(a) through (f)”
270.33(b): Correct “an RCRA permit” to “a RCRA permit”	702.163: Not necessary, the Board has already made the correction
270.41(c): Correct “environmental” to “environment”	703.273: Not necessary, the Board has already made the correction
270.42(d)(2)(i): Correct “do no” to “do not”	703.280(d)(2)(i): Not necessary, the Board has already made the correction
270.42, appendix I item C.4.: Remove the footnote from the class code	703.Appendix A item C.4.: The Board made the correction

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
270.42, appendix I item C.6.: Change “264.98(j)” to “264.98(h)”	703.Appendix A item C.6.: The Board made the correction to corresponding “35 Ill. Adm. Code 724.198(h)”
270.42, appendix I item C.7.a.: Change “264.98(h)(4)” to “264.98(g)(4)”	703.Appendix A item C.7.a.: The Board made the correction to corresponding “35 Ill. Adm. Code 724.198(g)(4)”
270.42, appendix I item C.8.a.: Change “264.99(k)” to “264.99(j)”	703.Appendix A item C.8.a.: The Board made the correction to corresponding “35 Ill. Adm. Code 724.199(j)”
270.42, appendix I item F.2.: Change the colon after the item number “2” to a period	703.Appendix A item F.2.: Not necessary, the Board has already made the correction
270.42, appendix I item F.4.: Correct “storage of treatment” to “storage or treatment”	703.Appendix A item F.4.: Not necessary, the Board has already made the correction
270.42, appendix I item F.4.a.: Add the footnote from the class code	703.Appendix A item F.4.a.: The Board made the correction
270.42, appendix I item G.1.: Change the colon after the item number “2” to a period	703.Appendix A item G.1.: Not necessary, the Board has already made the correction
270.42, appendix I item H.6.: Change the footnote designation “*” to “1”	703.Appendix A item H.6.: Not necessary, the Board has rendered all footnote markings with an asterisk, since there is only one footnote for the entire table
270.42, appendix I item J.7.: Change the footnote designation “*” to “1”	703.Appendix A item J.7.: Not necessary, the Board has rendered all footnote markings with an asterisk, since there is only one footnote for the entire table
270.42, appendix I item L.9.: Change “Changes Needed to meet Standards” to lower-case “changes needed to met standards”	703.Appendix A item L.9.: Not necessary, the Board has already made the change to lower-case
270.70(a): Change “have an RCRA permit” to “have a RCRA permit”	703.153(a): Not necessary, the Board has already made the correction
270.72(b)(2): Correct the spelling “inpoundments” to “impoundments”	703.155(b)(2): Not necessary, the Board has already made the correction
271.1 table 1: Correct the spelling “wastesaters” to “wastewaters”	Not necessary, since there is no counterpart provision in the Illinois regulations
271.1 table 1: Correct the spelling “fertilzers” to “fertilizers”	Not necessary, since there is no counterpart provision in the Illinois regulations
271.1 table 2: Correct the spelling “enviroment” to “environment”	Not necessary, since there is no counterpart provision in the Illinois regulations
271.1 table 2: Correct the spelling “mininization” to “minimization”	Not necessary, since there is no counterpart provision in the Illinois regulations

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
271.21(f): Remove “speciflines”	Not necessary, since there is no counterpart provision in the Illinois regulations
271.21(g)(1)(i): Correct “dils” to “diligent efforts”	Not necessary, since there is no counterpart provision in the Illinois regulations
271.23(a)(1): Correct the spelling “relevant” to “relevant”	Not necessary, since there is no counterpart provision in the Illinois regulations
271.23(b)(1): Correct “with dawal” to “withdrawal”	Not necessary, since there is no counterpart provision in the Illinois regulations
271.23(b)(5): Correct the spelling “makng” to “making”	Not necessary, since there is no counterpart provision in the Illinois regulations
273.9 “universal waste”: Change “hazardous waste” to plural “hazardous wastes”	733.109 “universal waste”: Not necessary, the Board has already made the correction
273.9 “universal waste”: Add an ending semicolon after “§ 273.2”	733.109 “universal waste”: Not necessary, the Board has already made the correction
273.9 “universal waste”: Add an ending semicolon after “§ 273.3”	733.109 “universal waste”: Not necessary, the Board has already made the correction
273.13(b): Correct “prevent releases” to singular “prevents releases”	733.113(b): Not necessary, the Board has already made the correction
273.14(a): Add closing parentheses after “Universal Waste—Battery(ies)”	733.114(a): Not necessary, the Board has already made the correction
273.34(a): Change “clearly with the any one” to “clearly with any one”	733.134(a): Not necessary, the Board has already made the correction
279.1 “petroleum refining facility”: Correct the spelling “kerosine” to “kerosene”	739.101: Not necessary, the Board has already corrected the spelling
279.10(b)(2): Correct “solely exhibits one or more of the hazardous waste characteristic” to plural “solely exhibit one of more of the hazardous waste characteristics”	739.110(b)(2): Not necessary. the Board has already corrected this to “solely exhibits one or more of the hazardous waste characteristics identified in Subpart C of 35 Ill. Adm. Code 721”
279.11: Delete “in the specification”	739.111: The Board made the correction
279.11: Change “not to exceed any allowable specification” to “not to exceed any allowable level”	739.111: The Board made the correction
279.11 table title: Change “specification” to “allowable levels shown below”	739.111 table title: The Board made the change to “allowable levels” without adding “shown below”
279.11 table footnote 1: Change “specification does not” to “allowable levels do not”	739.111 table footnote 1: The Board made the correction
279.43(c)(3)(i): Add a comma after “49 CFR 171.15”	739.143(c)(3)(A): Not necessary, the Board has already corrected the punctuation
279.43(c)(5): Change “used oil discharged” to “used oil discharge”	739.143(c)(5): The Board made the correction

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
279.44(a): Change “being transporter” to “being transported”	739.144(a): The Board made the correction
279.44(c)(2): Correct “if the CFC are” to “if the CFCs are”	739.144(c)(2): The Board made the correction
279.45(a): Change “subpart F or this chapter” to “subpart F of this part”	739.145: The Board corrected this to corresponding “Subpart F of this Part”
279.52(a): Change “processors and re-refiners” to “processing and re-refining”	739.152(a): Not necessary, the Board has already made the correction
279.52(b): Change “processors and re-refiners” to “processing and re-refining”	739.152(b): Not necessary, the Board has already made the correction
279.52(b)(1)(ii): Correct “release or used oil” to “release of used oil”	739.152(b)(1)(B): Not necessary, the Board has already made the correction
279.52(b)(6)(ii): Correct “a real extent” to “areal extent”	739.152(b)(1)(B): The Board made the correction
279.52(b)(6)(ii): Correct “facility records of manifests” to “facility records or manifests”	739.152(b)(1)(B): The Board made the correction
279.52(b)(6)(ii): Correct “chemical analysts” to “chemical analyses”	739.152(b)(1)(B): The Board made the correction
279.52(b)(6)(iii): Correct “water or chemical” to “water or chemical”	739.152(b)(1)(C): The Board made the correction
279.55(a): Correct “at at minimum” to “at a minimum”	739.155(a): Having previously corrected this to “at minimum,” the Board made the change to “at a minimum”
279.55(b)(2)(i)(B): Correct “§ 260.20 and 260.21” to “§§ 260.20 and 260.21”	739.155(b)(2)(A)(ii): Not necessary, the Board has already corrected the cross-reference to corresponding “35 Ill. Adm. Code 720.120 and 720.121”
279.56(a)(2): Change “processor/re-refining” to “processor/re-refiner”	739.156(a)(2): Not necessary, the Board originally used “processor,” since the term “processing” is defined in Section 739.110 (corresponding with 40 C.F.R. 279.10) as including “re-refining”
279.57(a)(2)(ii): Correct “an specified” to “as specified”	739.157(a)(2)(B): Not necessary, the Board has already made the correction
279.59: Correct “or re-fining of” to “or re-refining of”	739.159: The Board made the correction
279.63(b)(3): Change “processor/refiner” to “processor/re-refiner”	739.163(b)(3): Not necessary, the Board originally used “processor,” since the term “processing” is defined in Section 739.110 (corresponding with 40 C.F.R. 279.10) as including “re-refining”
279.64(e): Change “existing” to “new”	739.164(e): The Board made the correction

40 C.F.R. Provisions: Correction	35 Ill. Adm. Code Provision: Necessary Board Action
279.70(b)(1): Correct “incidentally” to “incidentally”	739.170(b)(1): Not necessary, the Board has already made the correction

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 A (beginning immediately below) includes deviations made in this proposal for public comment from the verbatim text of the federal amendments. Table B (beginning immediately after Table A on page 115) contains corrections and clarifications that the Board made in the base text involved in this proposal. The amendments listed in Table B 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 at page 6 of this opinion.

Table A
Deviations from the Text of the Federal Amendments

Illinois Section	40 C.F.R. Section	Revision(s)
703.280(1)	270.42(1)	Added “the owner or operator of”; changed “Performance Track member facilities” to singular “a Performance Track member facility”
703.280(1)(1)	270.42(1)(1)	Added “the owner or operator of”; changed “Performance Track member facilities that request” to singular “a Performance Track member facility that requests”

Illinois Section	40 C.F.R. Section	Revision(s)
703.280(1)(2)	270.42(1)(2)	Added “the owner or operator of the”; changed “application” to “request for permit modification”; changed “Director” to “Agency”; added “in writing” as a parenthetical offset by commas; changed the phrase “within 60 days of receiving the request” to “within 60 days after receiving an application” and moved it from the end of the sentence to follow “the Agency does not”; added “the owner or operator of” (twice); changed “of an extension” to “that the Agency has extended”; changed “in these situations” to “during an extension of the 60-day deadline”; changed “application” to “request for permit modification; added a comma before and changed “and maintain” to “and it must maintain” to create an independent clause for enhanced clarity
703.280 Board note	270.42	Changed the citation to include the new subsection (1); updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.Appendix A, ¶ O.1.	Appendix 1 to 270.42, ¶ O.1.	Changed “Performance Track member facilities” to singular “a Performance Track member facility”; added “one of the following”
703.Appendix A, ¶ O.1.a.	Appendix 1 to 270.42, ¶ O.1.a.	Changed “tanks systems” to singular “a tank system”; added the ending period
703.Appendix A, ¶ O.1.b.	Appendix 1 to 270.42, ¶ O.1.b.	Changed “containers” to singular “a container”; added the ending period
703.Appendix A, ¶ O.1.c.	Appendix 1 to 270.42, ¶ O.1.c.	Changed “containment buildings” to singular “a containment building”; added the ending period
703.Appendix A, ¶ O.1.d.	Appendix 1 to 270.42, ¶ O.1.d.	Changed “areas” to singular “an area”; added the ending period
703.Appendix A, ¶ O.2.	Appendix 1 to 270.42, ¶ O.2.	Added the ending period
703.Appendix A, ¶ O.3.	Appendix 1 to 270.42, ¶ O.3.	Changed “changes” to singular “a change”; added “any of the following”; added the ending period

Illinois Section	40 C.F.R. Section	Revision(s)
703.Appendix A, ¶ O.4.	Appendix 1 to 270.42, ¶ O.4.	Changed “changes” to singular “a change”; changed “tank systems” to singular “a tank system”; added “any of the following”; added the ending period
703.Appendix A, ¶ O.5.	Appendix 1 to 270.42, ¶ O.5.	Changed “changes” to singular “a change”; added the ending period
720.110 “cathode ray tube”	260.10 “cathode ray tube”	Added quotation marks to the defined term “cathode ray term” and alternative defined term “CRT”; added quotation marks to the defined term “used, intact CRT”; added quotation marks to the defined term “used, broken CRT”
720.110 “CRT collector”	260.10 “CRT collector”	Added quotation marks to the defined term “CRT collector”
720.110 “CRT glass manufacturer”	260.10 “CRT glass manufacturer”	Added quotation marks to the defined term “CRT glass manufacturer”
720.110 “CRT collector”	260.10 “CRT collector”	Added quotation marks to the defined term ““CRT collector”“
720.110 “CRT processing”	260.10 “CRT processing”	Added quotation marks to the defined term “CRT processing”; removed the subsection numbers from the subordinate paragraphs (three times); removed the unnecessary conjunction “and” from between the first and second subordinate paragraphs
720.110 “Performance Track member facility”	260.10 “Performance Track member facility”	Changed “EPA” to “USEPA”; added a short title “Program” in parentheses; added “which” for a subsequent restrictive relative clause; changed “the Program” to “that program”; changed “facility based” to hyphenated “facility-based”; changed “facility members” to “Program members”; added a Board note ex
720.110 “Performance Track member facility” Board note	260.10 “Performance Track member facility”	Added an explanation of the Program, together with citations to <i>Federal Register</i> notices relating to the program and an address for the USEPA website pertaining to the Program
721 table of contents, Subpart E heading	261 table of contents, subpart E heading	Changed “Exclusions/Exemptions” to “Exclusions and Exemptions”
721 table of contents, 721.139 heading	261 table of contents, 261.39 heading	Changed “Cathode Ray Tubes (CRTs)” to “CRTs”; removed the ending period
721 table of contents, 721.140 heading	261 table of contents, 261.40 heading	Changed “Cathode Ray Tubes (CRTs)” to “CRTs”; removed the ending period

Illinois Section	40 C.F.R. Section	Revision(s)
721 table of contents, 721.141 heading	261 table of contents, 261.41 heading	Changed “Cathode Ray Tubes (CRTs)” to “CRTs”; removed the ending period
721.104(a)(22)	261.4(a)(22)	Changed “cathode ray tubes (CRTs)” to the defined abbreviation “CRTs”; added the ending period
721.104(a)(22)(i)	261.4(a)(22)(A)	Added commas before and after “as defined in 35 Ill. Adm. Code 720.110” to offset the parenthetical; changed “solid wastes” to singular “solid waste”; added a comma before “unless” to offset the parenthetical; changed “disposed” to “disposed of”; removed the comma before and changed “unless they are speculatively accumulated” to “speculatively accumulated” for the second element of a two-element series; added commas before and after “as defined in 35 Ill. Adm. Code 721.101(c)(8)” to offset the parenthetical; changed CRT collectors or glass processors” to singular “a CRT collector or glass processor”
721.104(a)(22)(ii)	261.4(a)(22)(B)	Added commas before and after “as defined in 35 Ill. Adm. Code 720.110” to offset the parenthetical; changed “solid wastes” to singular “solid waste”; added a comma before “provided” to offset the parenthetical
721.104(a)(22)(iii)	261.4(a)(22)(C)	Added commas before and after “as defined in 35 Ill. Adm. Code 720.110” to offset the parenthetical; changed “solid wastes” to singular “solid waste”; added a comma before “provided” to offset the parenthetical
721.121(a)(3)	261.21(a)(3)	Retained the reference to “flammable gas, as defined in 49 CFR 173.115” instead of adding language from former 49 C.F.R. 173.300(b) (1980); revised the appended Board note to explain the deviation from the federal text

Illinois Section	40 C.F.R. Section	Revision(s)
721.121(a)(4)	261.21(a)(4)	Retained the reference to “oxidizer, as defined in 49 CFR 173.127” instead of adding language from former 49 C.F.R. 173.151 (1980); did not add the language from the definition of “organic peroxide” from former 49 CFR 173.151a (1980); revised the appended Board note to explain the deviation from the federal text
721.133(e) Board note	261.33(e) comment	Changed “Hazardous Waste Number” to lower-case “USEPA hazardous waste number”
721.133(e) numerical listing table	261.33(e) numerical list	Changed “numerical list” to “numerical listing”
721.133(f) Board note	261.33(f) comment	Changed “Hazardous Waste Number” to lower-case “USEPA hazardous waste number”
721.Subpart E heading	261, subpart E heading	Changed “Exclusions/Exemptions” to “Exclusions and Exemptions”
721.139 heading	261.39 heading	Changed “Cathode Ray Tubes (CRTs)” to “CRTs”; removed the ending period
721.139 preamble	261.39 preamble	Changed “solid wastes” to singular “solid wastes”
721.139(a)	261.39(a)	Added “CRT” before “processing”; changed the ending colon to a period; removed the redundant “if” from before “they meet”
721.139(a)(1)	261.39(a)(1)	Changed “must be either” to “must be managed in either of the following ways”
721.139(a)(1)(i)	261.39(a)(1)(A)	Added “they are” to make a complete sentence
721.139(a)(1)(ii)	261.39(a)(1)(B)	Added “they are” to make a complete sentence
721.139(a)(2)	261.39(a)(2)	Changed “tube(s)” to “tubes”; added “with the following statement”
721.139(a)(4)	261.39(a)(4)	Added a comma before “as defined” to offset the parenthetical; added a comma before “instead of” to offset the parenthetical
721.139(a)(5)	261.39(a)(5)	Changed “exporters” to singular “an exporter”
721.139(a)(5)(A)	261.39(a)(5)(i)	Added “it must”; changed “EPA” to “the Agency and USEPA”; changed “twelve (12) month or lesser” to “12-month or shorter”

Illinois Section	40 C.F.R. Section	Revision(s)
721.139(a)(5)(A)(i)	261.39(a)(5)(i)(A)	Added the definite article “the”; changed “EPA” to “USEPA”
721.139(a)(5)(A)(v)	261.39(a)(5)(i)(E)	Changed “type(s)” to “types”
721.139(a)(5)(B)	261.39(a)(5)(ii)	Changed the structure to present the delivery addresses in two separate subsections using the opening statement as a preamble statement for both subsections, including the labeling requirement as a generally applicable statement; removed “by mail should be sent to the following mailing address”; changed the ending colon to a period; added “words” after “following”; changed “shall” to “must”; changed “the envelope” to “any envelope containing an export notification”
721.139(a)(5)(B)(i)	261.39(a)(5)(ii)	Changed the structure to present the mailing address in a separate subsection; added “an export” before “notification”; added “to USEPA” before “by mail”; changed “shall” to “must”
721.139(a)(5)(B)(ii)	261.39(a)(5)(ii)	Changed the structure to present the and delivery address in a separate subsection; changed “hand-delivered notifications should” to singular “an export notification hand-delivered to USEPA must”
721.139(a)(5)(B)(iii)	261.39(a)(5)(ii)	Added the separate provision for notification to the Agency
721.139(a)(5)(C)	261.39(a)(5)(iii)	Added “the Agency or”; changed “EPA” to “USEPA” (twice); changed “shall” to “must”; added “the Agency and”
721.139(a)(5)(D)	261.39(a)(5)(iv)	Changed “EPA” to “USEPA” (four times); added “has stated that it” (twice); added “the Agency and”; changed “which” to “that” for a restrictive relative clause
721.139(a)(5)(E)	261.39(a)(5)(v)	Added a comma before “unless” to offset the parenthetical; changed “EPA” to “USEPA” (three times); added “has stated that it” (three times)
721.139(a)(5)(F)	261.39(a)(5)(vi)	Added “the Agency and”; changed “EPA” to “USEPA” (twice)
721.139(a)(5)(H)	261.39(a)(5)(viii)	Added “the Agency and”; changed “EPA” to “USEPA”

Illinois Section	40 C.F.R. Section	Revision(s)
721.139(a)(5)(I)	261.39(a)(5)(ix)	Changed “exporters” to singular “an exporter”
721.139(a) Board note	261.39(a)	Added explanation that it is USEPA which grants export notifications and that the Board has required export notification to the Agency to aid compliance assurance
721.139(b)	261.39(b)	Changed the ending colon to a period; added a comma before and after “as defined in 35 Ill. Adm. Code 720.110” to offset it as a parenthetical
721.139(b)(1)	261.39(b)(1)	Added “CRT” before “processing” to use the defined term
721.139(b)(2)	261.39(b)(2)	Added “CRT” before “processing” to use the defined term
721.139(b)(2)(A)	261.39(b)(2)(i)	Changed “paragraphs (2) and (3)” to “the second and third subsections”
721.139(b)(2)(A) Board note	261.39(b)(2)(i)	Added the explanation of the content of the second and third subsections of the definition
721.139(c)	261.39(c)	Changed the ending colon to a period; changed “processed CRT glass” to “glass from CRT processing” to use the defined term; added “that is” before “sent”; changed “used CRTs” to “CRT processing”; added “CRT” before “processing” to use the defined term; added a comma before “as defined” to offset the parenthetical
721.139(d)	261.39(d)	Changed the ending colon to a period; changed “used CRTs” to “CRT processing”
721.140 heading	261.40 heading	Changed “Cathode Ray Tubes (CRTs)” to “CRTs”; removed the ending period
721.140	261.40	Changed “solid wastes” to singular “solid waste”; removed the unnecessary comma from before and changed “and if they” to “and they”; added a comma before “as defined” to offset the parenthetical
721.141 heading	261.41 heading	Changed “Cathode Ray Tubes (CRTs)” to “CRTs”; removed the ending period

Illinois Section	40 C.F.R. Section	Revision(s)
721.141(a)	261.41(a)	Changed “persons who export” to singular “a person that exports”; added “the Agency and” before and “of USEPA Region 5” after “the Regional Administrator”; changed “EPA” to “USEPA”
721.141(b)	261.41(b)	Changed “persons who export” to singular “a person that exports”
724.115(b)(4)	264.15(b)(4)	Changed “Performance Track member facilities” to singular “owner or operator of a Performance Track member facility”; changed “that” to “which” for a non-restrictive relative clause; changed “upon approval” to “after approval”; changed “Director” to “Agency”
724.115(b)(5)	264.15(b)(5)	Changed “Performance Track member facilities that choose . . . their” to singular “the owner or operator of a Performance Track member facility that chooses . . . its”; added “fulfill the following requirements”
724.115(b)(5)(A)	264.15(b)(5)(i)	Added “it must”; changed “Director” to “Agency”; changed “the facility” to “its facility” (twice); added a comma before and changed “and identify” to “and it must identify” for an independent clause; changed “the facility” to “the owner or operator” for a non-restrictive relative clause; added “as provided in subsection (b)(4) of this Section” to offset by a comma as a parenthetical; added “pursuant to this subsection (b)(5)” after “inspections”

Illinois Section	40 C.F.R. Section	Revision(s)
724.115(b)(5)(B)	264.15(b)(5)(ii)	Changed “Director” to “Agency”; changed “will” to “must” added “the owner or operator of” before “the Performance Track member facility” (three times); added “submitted pursuant to subsection (b)(5)(A) of this Section” after “the request”; added “the owner or operator of a” before “Performance Track member facility”; changed “Director” to “Agency”; removed the colon and added “either” after “does not; removed the semicolon from before “or notify”;
724.115(b)(5)(C)	264.15(b)(5)(iii)	Added “the owner or operator of a” before “Performance Track member facility”; changed “their” to singular “its” (twice); changed “is terminated” to “which USEPA terminates”; changed “Director” to “Agency”; added “owner or operator” after “facility”
724.116(a)(4)	264.16(a)(4)	Added “the federal” before “Occupational Safety and Health Administration”; added “at” before “29 CFR 1910.120(p)(8) and (q)”; added “OSHA emergency response” before “training”
724.152(b)	264.52(b)	Changed “which” to “that” for a restrictive relative clause; changed “USEPA recommends” to “USEPA has recommended”; removed the quotation marks from “(One Plan)”
724.152(b) Board note	264.52(b)	Added <i>Federal Register</i> citations and Internet addresses for information about the federal “One Plan”
724.173(b)	264.73(b)	Changed “noted” to “otherwise provided”
724.173(b)	264.73(b)	Changed “noted” to “otherwise provided”
724.173(b)(6)	264.73(b)(6)	Added a comma before “which must” to offset a non-restrictive relative clause
724.173(b)(16)	264.73(b)(16)	Removed the ending conjunction “and”
724.173(b)(17)	264.73(b)(17)	Changed the ending period to a semicolon
724.173(b)(18)	264.73(b)(18)	Added a comma after “testing” to offset the final element of a series; changed the ending period to a semicolon; added the ending conjunction “and”

Illinois Section	40 C.F.R. Section	Revision(s)
724.173(b)(19)	264.73(b)(19)	Added commas before and after “as required by Section 724.296(f)” to offset it as a parenthetical
724.198(g)(2)	264.98(g)(2)	Changed “Regional Administrator” to “Agency”; removed the parenthetical “on a discretionary basis”; changed “may” to “must”; added “for” before “other representative”; changed “representative/related” to “representative or related”; added “if it determines . . . contamination has occurred”
724.198(g)(3)	264.98(g)(3)	Changed “Administrator” to “Agency”
724.199(g)	264.99(g)	Moved “annually” to follow “must”; changed “Administrator” to “Agency” (four times); added “the following” after “determine”
724.274	264.174	Changed “Performance Track member facilities” to singular “the owner or operator of a Performance Track member facility”; changed “that” to “which” for a non-restrictive relative clause; changed “upon approval” to “after approval”; changed “Director” to “Agency”; added “the owner or operator of” before “the Performance Track member facility”
724.292(b)	264.192(b)	Retained “tank systems” in place of “tanks systems”
724.293(a)(1)	264.193(a)(1)	Changed “new and existing tank systems” to singular “new or existing tank systems”
724.293(a)(2)	264.193(a)(2)	Changed “within two years of” to “within two years after”
724.293(i)(2)(A)	264.193(a)(2)	Retained the commas before “as described in subsection (i)(1) of this Section” that offset it as a parenthetical
724.295(b)	264.195(b)	Added “etc.” offset by a comma after “monitoring wells”
724.295(c)	264.195(c)	Added “the following”
724.295(c)(1)	264.195(c)(1)	Changed the ending period to a semicolon; added the ending conjunction “and”
724.674(a)	264.574(a)	Moved “by a qualified Professional Engineer” from the end of the sentence to follow “certified”; added “set forth” before “in”

Illinois Section	40 C.F.R. Section	Revision(s)
724.1101(c)(2)	264.1101(c)(2)	Retained “subsections (a) through (c)” in place of “paragraphs (a), (b), and (c)”
724.1101(c)(4)	264.1101(c)(4)	Changed “Performance Track member facilities” to singular “the owner or operator of a Performance Track member facility”; added “the record” after “inspect”; removed the comma before and changed “upon approval” to “after approval”; changed “Director” to “Agency”; added the indefinite article “a” before “reduced inspection frequency”; added “owner or operator of a” before “Performance Track member facility”
725.115(b)(4)	265.15(b)(4)	Changed “Performance Track member facilities” to singular “owner or operator of a Performance Track member facility”; changed “that” to “which” for a non-restrictive relative clause; changed “upon approval” to “after approval”; changed “Director” to “Agency”
725.115(b)(5)	265.15(b)(5)	Changed “Performance Track member facilities that choose . . . their” to singular “the owner or operator of a Performance Track member facility that chooses . . . its”; added “fulfill the following requirements”
725.115(b)(5)(A)	265.15(b)(5)(i)	Added “it must”; changed “Director” to “Agency”; changed “the facility” to “its facility” (twice); added a comma before and changed “and identify” to “and it must identify” for an independent clause; changed “the facility” to “the owner or operator” for a non-restrictive relative clause; added “as provided in subsection (b)(4) of this Section” to offset by a comma as a parenthetical; added “pursuant to this subsection (b)(5)” after “inspections”

Illinois Section	40 C.F.R. Section	Revision(s)
725.115(b)(5)(B)	265.15(b)(5)(ii)	Changed “Director” to “Agency” (twice); changed “will” to “must”; added “the owner or operator of” before “the Performance Track member facility” (four times); replaced the colon with “either” and removed the parenthetical option numbers “(1)” and “(2)”; added “submitted pursuant to subsection (b)(5)(A) of this Section” after “the request”; added “the owner or operator of a” before “Performance Track member facility”; changed “Director” to “Agency”; removed the colon and added “either” after “does not; removed the semicolon from before “or notify”;
725.115(b)(5)(C)	265.15(b)(5)(iii)	Added “owner or operator of a” before “Performance Track member facility”; changed “is terminated” to “which USEPA terminates”; changed “Director” to “Agency”; added “owner or operator” after “facility”
725.116(a)(4)	265.16(a)(4)	Added “the federal” before “Occupational Safety and Health Administration”; added “at” before “29 CFR 1910.120(p)(8) and (q)”; added “OSHA emergency response” before “training”
725.152(b)	265.52(b)	Changed “which” to “that” for a restrictive relative clause; changed “USEPA recommends” to “USEPA has recommended”; removed the quotation marks from “(One Plan)”
725.152(b) Board note	265.52(b)	Added <i>Federal Register</i> citations and Internet addresses for information about the federal “One Plan”
725.173(b)	265.73(b)	Changed “noted below” to “otherwise provided as follows”
725.173(b)(2)	265.73(b)(2)	Changed “diagram of” to “diagram that shows”
725.173(b)(15)	265.73(b)(1)	Added a comma before “where required” to offset the parenthetical; added commas before and after “as required by Section 725.196(f)” to offset the parenthetical
725.198(g)(3)	265.98(g)(3)	Changed “Administrator” to “Agency”

Illinois Section	40 C.F.R. Section	Revision(s)
725.274	265.174	Changed “Performance Track member facilities” to singular “the owner or operator of a Performance Track member facility”; changed “that” to “which” for a non-restrictive relative clause; changed “upon approval” to “after approval”; changed “Director” to “Agency”; added “the owner or operator of” before “the Performance Track member facility”
725.293(a)(1)	265.193(a)(1)	Changed “new and existing tank systems” to singular “new or existing tank systems”
725.293(a)(2)	265.193(a)(2)	Changed “within two years of” to “within two years after”
725.293(i)(2)	265.193(a)(2)	Retained the commas before and after “as described in subsection (i)(1) of this Section” that offset it as a parenthetical
725.295(b)	265.195(b)	Added “etc.” offset by a comma after “monitoring wells”
725.295(c)	265.195(c)	Changed “owners or operators of tanks systems that either use . . . or implement” to singular “the owner or operator of a tank system that either uses . . . or implements”; removed the unnecessary commas from before and after “or implements . . . promptly identified” which separated the second element of a two-element series
725.295(d)	265.195(d)	Changed “Performance Track member facilities” to singular “the owner or operator of a Performance Track member facility”; changed “upon approval” to “after approval”; changed “Director” to “Agency”; added “it” before “must” for an independent clause; added “the owner or operator of” before “the Performance Track member facility”
725.296(f)	265.196(f)	Retained “owner or operator” instead of “owner/operator”; retained “must be” in place of “is to be”

Illinois Section	40 C.F.R. Section	Revision(s)
724.301(d)	264.201(d)	Changed “generators who accumulate . . . use . . . implement” to singular “a generator that accumulates . . . uses . . . implements”; changed “which” to “that” for a restrictive relative clause (twice); removed the commas before and after “or implements . . . are promptly identified” that separated a two-element series
724.301(e)	264.201(e)	Changed “Performance Track member facilities” to singular “the owner or operator of a Performance Track member facility”; changed “upon approval” to “after approval”; changed “Director” to “Agency”; added “it” before “must” for an independent clause; added “the owner or operator of” before “the Performance Track member facility”
725.414(f)	265.314(f)	Omitted the conditional language “unless . . . the Regional Administrator determines that:”; added “See 35 Ill. Adm. Code 729.311.” in parentheses
725.1101(c)(2)	265.1101(c)(2)	Added “it must”; retained “subsections (a) through (c)” in place of “paragraphs (a), (b), and (c)”
725.1101(c)(4)	265.1101(c)(4)	Changed “Performance Track member facilities” to singular “the owner or operator of a Performance Track member facility” added “the record” after “inspect”; added “at least” before “once each month” to agree with the USEPA amendments to 40 C.F.R. 264.1101(c)(4); removed the comma before and changed “upon approval” to “after approval”; changed “Director” to “Agency”; added the indefinite article “a” before “reduced inspection frequency”; added “owner or operator of a” before “Performance Track member facility”

Illinois Section	40 C.F.R. Section	Revision(s)
728.107(a)(2)	268.7(a)(2)	Changed “his” to “its”; changed “EPA Hazardous Waste Numbers” to lower-case “USEPA hazardous waste numbers”; changed “Manifest Number” to lower-case “manifest number”; added a comma before and changed “and must state” to “and it must include the following statement:” for an independent clause.
728.107(b)(6)	268.7(b)(6)	Changed “on site” to hyphenated “on-site”; added “the owner or operator of” before “the recycling facility”
728.107(c)(2)	268.7(c)(2)	Changed the comma after “EPA-530/SW-846” to a closing parenthesis

Table B
Board Housekeeping Amendments

Section	Source	Revision(s)
702.120 Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.182 Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
703.202 Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
703.212 Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
703.213(f)	Board	Changed “exceedences” to “exceedances”
703.213 Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
703.280 Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
703.350(a) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.350(b) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.350(c)(1)	Agency	Added the citations to “703.110” and “702.104”; changed “703.159” to “703.160”
703.350(c) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation

Section	Source	Revision(s)
703.352(a) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.352(b) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.352(c) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.352(d) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.352(e)(6)	Board	Changed “exceedences” to “exceedances”
703.352(e) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
703.Appendix A Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.110 “incompatible waste”	Board	Added “references that list”
720.111(a) “USDOD,” “USDOD Ammunition and Explosives Safety Standards”	Board	Updated the reference to the most recent edition available
720.111(a) “USDOD,” “the Motor Vehicle Inspection Report”	Board	Updated the reference to the most recent edition available
720.111(a) “USDOD,” “the Signature and Tally Record”	Board	Updated the reference to the most recent edition available
720.111(a) “USDOD,” “Special Instructions for Motor Vehicle Drivers”	Board	Updated the reference to the most recent edition available
720.111(a) “USDOD” Board note	Board	Added explanation of the on-line availability of the references
720.111(a) “USGSA,” “Government Bill of Lading”	Board	Corrected and updated the reference to the most recent edition available
720.111(a) “USGSA,” “Government Bill of Lading” Board note	Board	Added explanation of the on-line availability of the reference

Section	Source	Revision(s)
720.111(b) “10 CFR 20.2006”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “table II, column 2 in appendix B to 10 CFR 20”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix G to 10 CFR 20”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “10 CFR 71”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “10 CFR 71.5”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “33 CFR 153.203”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 3.2”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 3.3”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 3.10”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 3.2000”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 51.100(ii)”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix W to 40 CFR 51”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “appendix B 40 CFR 52.741”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 60”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citations
720.111(b) “subpart VV of 40 CFR 60”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix A to 40 CFR 60”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 61”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citations

Section	Source	Revision(s)
720.111(b) “subpart V of 40 CFR 61”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “subpart FF of 40 CFR 61”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 63”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citations
720.111(b) “subpart RR of 40 CFR 63”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “subpart EEE of 40 CFR 63”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citations
720.111(b) “Method 301 in appendix A to 40 CFR 63”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix C to 40 CFR 63”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix D to 40 CFR 63”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 136.3”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 144.70”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 3.2”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 232.2”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 257”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 258”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citations
720.111(b) “40 CFR 3.2”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 260.21”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix I to 40 CFR 260”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix III to 40 CFR 261”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 262.53”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition

Section	Source	Revision(s)
720.111(b) “40 CFR 262.54”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 262.55”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 262.56”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 262.57”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix to 40 CFR 262”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “40 CFR 264.151”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix I to 40 CFR 264”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix IV to 40 CFR 264”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix V to 40 CFR 264”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix VI to 40 CFR 264”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix I to 40 CFR 265”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix III to 40 CFR 265”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix IV to 40 CFR 265”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix V to 40 CFR 265”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “appendix IX 40 CFR 265”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 270.5”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 761”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 761.3”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 761.60”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 761.65”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “40 CFR 761.70”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition

Section	Source	Revision(s)
720.111(b) “subpart B of 49 CFR 107”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 171”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 172”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 171”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 171.3”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 171.8”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citations
720.111(b) “49 CFR 171.15”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 171.16”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 172”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 172.304”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “subpart F of 49 CFR 172”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 173”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 173.12”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 173.28”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 173.50”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 173.54”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 173.115”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
720.111(b) “49 CFR 173.127”	Board	Removed the unnecessary obsolete reference
720.111(b) “49 CFR 174”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation

Section	Source	Revision(s)
720.111(b) “49 CFR 175”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 176”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 177”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 178”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 179”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(b) “49 CFR 180”	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
720.111(c) “sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act”	Board	Updated the citation to the <i>United States Code</i> to the most recent edition
720.111(c) “section 1412 of the Department of Defense Authorization Act”	Board	Updated the citation to the <i>United States Code</i> to the most recent edition
721.103(e)(2)(E)(i)	Board	Changed “disposed” to “disposed of”
721.104(b)(1)	Board	Changed “disposed” to “disposed of”
721.121(a)(3)	Board	Added an explanation to the Board note of the differences between this provision and the corresponding federal provision at 40 C.F.R. 261.21(a)(3) due to USEPA’s reliance on the text of former 40 C.F.R. 173.300(b) (1980); added a <i>Federal Register</i> citation to the 1990 USDOT withdrawal of 40 C.F.R. 173.300(b)
721.121(a)(4)	Board	Added an explanation to the Board note of the differences between this provision and the corresponding federal provision at 40 C.F.R. 261.21(a)(4) due to USEPA’s reliance on the text of former 40 C.F.R. 173.151 and 173.151a (1980); added a <i>Federal Register</i> citation to the 1990 USDOT withdrawal of 40 C.F.R. 173.151

Section	Source	Revision(s)
721.131(a) Board note	Board	Placed quotation marks on the defined abbreviation “(I, T)”
721.133(e) Board note	Board	Placed quotation marks on the defined abbreviation “(I, T)”
721.133(e) table “P045”	Board	Added a space after “2-Butanaone,”; added the missing parenthesis mark before “(methyl amino)carbonyl)-oxime”
721.138(d)	Board	Corrected “Table Y” to “Appendix Y”
722.160(e)	Board	Added “as appropriate” offset by a comma
722.183(b)(1)(A)	Board	Corrected the address “401 M St., SW” to “1200 Pennsylvania Ave., NW”
722.183(b)(2)(A)	Board	Corrected the address “401 M St., SW” to “1200 Pennsylvania Ave., NW”
722.184(e)	Board	Corrected the address “401 M St., SW” to “1200 Pennsylvania Ave., NW”
722.187(a)	Board	Corrected the address “401 M St., SW” to “1200 Pennsylvania Ave., NW”
724 table of contents, 724.175 heading	Board	Added “Facility Activities”
724.172(e)	Board	Changed “following instructions” to “instructions set forth in subsections (e)(1) through (e)(6) of this Section”
724.172(f)	Board	Changed “following instructions” to “instructions set forth in subsections (e)(1) through (e)(6) of this Section”
724.173(b)(1)	Board	Changed “method or methods and date or dates” to “methods or dates”
724.175 heading	Board	Added “Facility Activities”
724.175	Board	Added “facility activities” before “report”
724.175 Board note	Board	Added explanation that corresponding 40 C.F.R. 264.75 requires biennial reporting, but the Board requires annual reporting as a result of Section 20.1 of the Act
724.198(g)(3)	Board	Changed “found pursuant to” to “set forth in”
724.213(e)(6)	Board	Changed “semi-annual” to “annual” in the topical heading, to agree with the federal amendment in the text
724.213(e)(6)(A)	Board	Added “they must”
724.213(e)(6)(B)	Board	Added “they must”
724.213(e)(6)(C)	Board	Added “they must”
724.247(a)(1)(A)	Board	Combined the two statements for the required wording of the endorsement and for the certificate of insurance into one statement
724.275(b)(1)	Board	Corrected past-tense “underlay” to present-tense “underlie”

Section	Source	Revision(s)
724.291(b)(5)(B)	Board	Added a comma before “in accordance with” to offset the parenthetical
724.292(a)	Board	Added a comma before “in accordance with” to offset the parenthetical
724.293(a)(2)	Board	Changed “tank systems that store or treat” to singular “tank system that stores or treats”
724.321(c)(1)(A)	Board	Changed numeric “3” to written “three”
724.353(b)(1)	Board	Changed “exceedence” to “exceedance”
724.380(a)(1)	Board	Added “it must”
724.380(a)(2)	Board	Added “it must”
724.380(a)(3)	Board	Added “it must”
724.380(a)(4)	Board	Added “it must”
724.380(a)(5)	Board	Added “it must”
724.380(a)(6)	Board	Added “it must”
724.380(a)(7)	Board	Added “it must”
724.380(a)(8)	Board	Added “it must”
724.380(c)(1)	Board	Added “it must”
724.380(c)(2)	Board	Added “it must”
724.380(c)(3)	Board	Added “it must”
724.380(c)(4)	Board	Added “it must”
724.380(c)(5)	Board	Added “it must”
724.380(c)(6)	Board	Added “it must”
724.380(c)(7)	Board	Added “it must”
724.380(d)(3)(A)	Board	Added “it”
724.380(d)(3)(B)	Board	Added “it”
724.671(b)	Board	Removed the statement “All upgrades, repairs, and modifications . . . with the following:” removed by USEPA in 1992
724.671(b)(1)	Board	Removed the subsection removed by USEPA in 1992
724.671(b)(2)	Board	Removed the subsection removed by USEPA in 1992
724.671(b)(3)	Board	Removed the subsection removed by USEPA in 1992
724.671(b)(3)(A)	Board	Removed the subsection removed by USEPA in 1992
724.671(b)(3)(B)	Board	Removed the subsection removed by USEPA in 1992
724.671(b)(3)(B)(i)	Board	Removed the subsection removed by USEPA in 1992
724.671(b)(3)(B)(ii)	Board	Removed the subsection removed by USEPA in 1992
724.936(a)(2)(A)(ii)	Board	Changed “exceedences” to “exceedances”
724.936(a)(2)(B)	Board	Changed “exceedence” to “exceedance”
724.964(a)(4)	Board	Changed “exceedence” to “exceedance”
724.1101(c)(1)	Board	Added “it must”
724.1101(c)(2)	Board	Added “it must”

Section	Source	Revision(s)
724.1101(c)(3)	Board	Added “it” before “must” for an independent clause; changed “In addition, however the following is required” to “in accordance with the following procedures” to agree with text as adopted by USEPA in 1992
724.1101(c)(4)	Board	Added “it must”
724.1101(e)	Board	Added a comma after the introductory clause “notwithstanding . . . this subpart DD”; added “in writing” as a parenthetical offset by commas after “the Agency must”; changed “not require” to “allow the use of alternatives to the requirements for”; changed “the owner operator demonstrates” to “the Agency has determined that the facility owner or operator has adequately demonstrated”
725.172(e)	Board	Changed “following instructions” to “instructions set forth in subsections (e)(1) through (e)(6) of this Section”
725.172(f)	Board	Changed “following instructions” to “instructions set forth in subsections (e)(1) through (e)(6) of this Section”
725.173(b)(1)	Board	Changed “method or methods and date or dates” to “methods or dates”
725.190(d)(1)	Board	Removed the introductory clause “by Nov. 19, 1981” and the offsetting comma
725.190(d)(2)	Board	Removed the introductory clause “by Nov. 19, 1981” and the offsetting comma
725.213(e)(6)	Board	Changed “semi-annual” to “annual” in the topical heading, to agree with the federal amendment in the text
725.213(e)(6)(A)	Board	Added “must”
725.213(e)(6)(B)	Board	Added “must”
725.213(e)(6)(C)	Board	Added “must”
725.247(a)(1)(A)	Board	Combined the two statements for the required wording of the endorsement and for the certificate of insurance into one statement
725.291(a)	Board	Added a comma before “as required” to offset the parenthetical
725.291(b)(5)(B)	Board	Added a comma before “in accordance with” to offset the parenthetical
725.292(a)	Board	Added a comma before “in accordance with” to offset the parenthetical
725.293(a)(2)	Board	Changed “tank systems that store or treat” to singular “tank system that stores or treats”
725.296(f)	Board	Added a comma before and after “in accordance with 35 Ill. Adm. Code 702.126(d)” to offset it as a parenthetical

Section	Source	Revision(s)
725.323 Board note	Board	removed the unnecessary explanation of two federal provisions with the same section number, since USEPA has now corrected the error
725.414(d)	Board	Replaced the explanation of the ban on liquids in landfills with an explanation relating to a past effective date in the corresponding federal provision
725.505(a)(1)	Board	Corrected "Section 721.121 or 721.123" to "35 Ill. Adm. Code 721.121 or 721.123"
725.541(b)	Board	Removed the statement "All upgrades, repairs, and modifications . . . with the following:" removed by USEPA in 1992
725.541(b)(1)	Board	Removed the subsection removed by USEPA in 1992
725.541(b)(2)	Board	Removed the subsection removed by USEPA in 1992
725.541(b)(3)	Board	Removed the subsection removed by USEPA in 1992
725.541(b)(3)(A)	Board	Removed the subsection removed by USEPA in 1992
725.541(b)(3)(B)	Board	Removed the subsection removed by USEPA in 1992
725.541(b)(3)(B)(i)	Board	Removed the subsection removed by USEPA in 1992
725.541(b)(3)(B)(ii)	Board	Removed the subsection removed by USEPA in 1992
725.543(a)(1)	Board	Added "it must"
725.543(a)(2)	Board	Added "it must"
725.543(a)(3)	Board	Added "it must"
725.543(a)(4)(A)	Board	Added "it must"
725.543(a)(5)	Board	Added "it must"
725.543(b)(1)(A)	Board	Added "it must be"
725.543(b)(1)(B)	Board	Added "it must be"
725.543(b)(1)(C)	Board	Added "it must be"
725.543(b)(2)(A)	Board	Added "it must be"
725.543(b)(2)(B)	Board	Added "it must be"
725.543(b)(2)(C)	Board	Added "it must be"
725.543(m)(1)(A)	Board	Added "it must"
725.543(m)(1)(B)	Board	Added "it must"
725.543(m)(1)(C)	Board	Added "it must"
725.543(m)(1)(D)	Board	Added "the owner or operator must"
725.1101(c)(1)	Board	Added "it must"
725.1101(c)(1)(A)	Board	Added "it must"
725.1101(c)(1)(B)	Board	Added "it must"
725.1101(c)(1)(C)	Board	Added "it must"
725.1101(c)(1)(D)	Board	Added "it must"
725.1101(c)(1) Board note	Board	Removed the date from the <i>Code of Federal Regulations</i> citation

Section	Source	Revision(s)
725.1101(c)(3)	Board	Added “it” before “must” for an independent clause; changed “In addition, however the following is required” to “in accordance with the following procedures” to agree with text as adopted by USEPA in 1992
725.1101(c)(4)	Board	Added “it must”
725.1101(e)	Board	Added a comma after the introductory clause “notwithstanding . . . this subpart DD”; added “in writing” as a parenthetical offset by commas after “the Agency must”; changed “not require” to “allow the use of alternatives to the requirements for”; changed “the owner operator demonstrates” to “the Agency has determined that the facility owner or operator has adequately demonstrated”
726.200(i) “continuous monitor” Board note	Board	Added an explanation of the federal source of the definition
726.200(i) “hourly rolling average” Board note	Board	Added an explanation of the federal source of the definition
726.200(i) “one hour block average” Board note	Board	Added an explanation of the federal source of the definition
726.200(i) “rolling average for the selected averaging period” Board note	Board	Added an explanation of the federal source of the definition
726.202(e)(6)(A)(ii) Board note	Board	Added an explanation of the combination and movement of text from federal source
726.202(e)(6)(B)(ii)	Board	The Board changed “terms are as defined” to “the continuous monitor must meet . . . ‘one hour block average’”
726.202(e)(6)(B)(ii) Board note	Board	Added an explanation of the movement of text from federal source
726.203(c)(4)(D)(iii) Board note	Board	Added an explanation of the combination and movement of text from federal source
726.205(c)(1)	Board	Reformatted the equation into standard equation format
726.206(d)(5)	Board	Changed “exceedence” to “exceedance”
726.207(c)(3)	Board	Changed “exceedence” to “exceedance”
726.Appendix C	Board	Corrected “Gas” to “Chlorine Gas”
726.Appendix E	Board	Corrected “ $1 \cdot 10^{-5}$ ” to “ 1×10^{-5} ”
727.170(c) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation

Section	Source	Revision(s)
727.170(d) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
727.170(e) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
727.170(f)	Board, Agency	Changed “a biennial report” to “an annual facility activities report”
727.170(f)(1)	Board, Agency	Changed “biennial report” to “annual facility activities report” (twice); changed “a biennial report” to “an annual facility activities report”; removed “even numbered” from before “year”; changed “two calendar years” to “calendar year”
727.170(f)(1) Board note	Board	Added an explanation of the statutory basis for the difference in reporting frequency between the State and the corresponding federal provisions
727.170(f) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
727.170(g) Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition, including removal of the obsolete <i>Federal Register</i> citation
728.102 “debris”	Board	Removed the unnecessary colon from after “that is”
728.102 “end of pipe”	Board	Removed the definition withdrawn by USEPA in 1996
728.102 “land disposal restriction”	Board	Added this definition of a fundamental term, basing the definition on definitions of the term from federal sources
728.102 “land disposal restriction” Board note	Board	Added explanation of the added definition and its sources
728.102 “stormwater impoundments”	Board	Removed the definition withdrawn by USEPA in 1996
728.104(a)(3)	Board	Corrected “Subpart F of this Part” to “Subpart F of 35 Ill. Adm. Code 725”
728.109(d)(3)	Board	Removed text withdrawn by USEPA in 1996
728.109(d)(3)(A)	Board	Removed text withdrawn by USEPA in 1996
728.109(d)(3)(B)	Board	Removed text withdrawn by USEPA in 1996
728.109(d)(3)(C)	Board	Removed text withdrawn by USEPA in 1996
728.109(d)(3)(D)	Board	Removed text withdrawn by USEPA in 1996
728.109(e)	Board	Removed text withdrawn by USEPA in 1996
728.109(f)	Board	Removed text withdrawn by USEPA in 1996
728.109(g)	Board	Removed text withdrawn by USEPA in 1996
728. Table C Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition

Section	Source	Revision(s)
728.Table T Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
728.Table U Board note	Board	Updated the citation to the <i>Code of Federal Regulations</i> to the most recent edition
739.110(b)(2)	Board	changed “that exhibits a hazardous waste characteristic” to “that solely exhibits one or more of the hazardous waste characteristics”
739.145(a)	Board	Corrected “Subpart F” to “Subpart F of this Part”
739.155(a)	Board	Added the indefinite article “a” before “minimum”

HISTORY OF RCRA SUBTITLE C AND UIC ADOPTION
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY OR BOARD ACTION
EDITORIAL CONVENTIONS

It has previously been the practice of the Board to include an historical discussion in its RCRA Subtitle C and UIC identical-in-substance rulemaking proposals. However, in the last RCRA Subtitle C update docket, RCRA Subtitle C Update, USEPA Amendments (July 1, 1999 through December 31, 1999), R00-13 (May 18, 2000), the Board indicated that it would cease this practice. Therefore, for a complete historical summary of the Board’s RCRA Subtitle C and UIC rulemakings and programs, interested persons should refer back to the May 18, 2000 opinion and order in R00-13.

The historical summary contains all Board actions taken to adopt and maintain these programs since their inception and until May 18, 2000. It includes a listing of all site-specific rulemaking and adjusted standards proceedings filed that relate to these programs. It also lists all USEPA program authorizations issued during that timeframe. As necessary the Board will continue to update the historical summary as a segment of the opinion in each RCRA Subtitle C and UIC update docket, but those opinions will not repeat the information contained in the opinion of May 18, 2000, in docket R00-13.

The following summarizes the history of the Illinois RCRA Subtitle C hazardous waste and UIC programs since May 18, 2000:

History of RCRA Subtitle C and State Hazardous Waste Rules Adoption

The Board has adopted and amended the RCRA Subtitle C hazardous waste rules in the following docket since May 18, 2000:

R00-13 RCRA Subtitle C Update, USEPA Regulations (July 1, 1999 through December 31, 1999), R00-13 (May 18, 2000); published at 24 Ill. Reg. 9443 (July 7, 2000), effective June 20, 2000.

- R01-3 RCRA Subtitle C Update, USEPA Regulations (January 1, 2000 through June 30, 2000), R01-3 (Dec. 7, 2000); published at 25 Ill. Reg. 1266 (Jan. 26, 2001), effective January 11, 2001.
- R01-23 RCRA Subtitle C Update, USEPA Regulations (July 1, 2000 through December 31, 2000), R01-23 (May 17, 2001); published at 25 Ill. Reg. 9108 (July 20, 2001), effective July 9, 2001. (Consolidated with UIC update docket R01-21.)
- R02-1 RCRA Subtitle C Update, USEPA Regulations (January 1, 2001 through June 30, 2001), R02-1 (Apr. 18, 2002); published at 26 Ill. Reg. 6667 (May 3, 2002), effective April 22, 2002. (Consolidated with RCRA Subtitle C Update docket R02-12 and UIC Update docket R02-17.)
- R02-12 RCRA Subtitle C Update, USEPA Regulations (July 1, 2001 through December 31, 2001), R02-12 (Apr. 18, 2002); published at 26 Ill. Reg. 6667 (May 3, 2002), effective April 22, 2002. (Consolidated with RCRA Subtitle C Update docket R02-1 and UIC Update docket R02-17.)
- R03-7 RCRA Subtitle C Update, USEPA Regulations (January 1, 2002 through June 30, 2002), R03-7 (Jan. 9, 2003); published at 27 Ill. Reg. 3496, effective February 14, 2003.
- R03-18 RCRA Subtitle C Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-7 (June 5, 2003); published at 27 Ill. Reg. 12683, effective July 17, 2003.
- R04-6 RCRA Subtitle C Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-6 (Aug. 7, 2003). (Dismissed because no federal actions in the period.)
- R04-16 RCRA Subtitle C Update, USEPA Regulations (July 1, 2003 through December 31, 2003), R04-16 (Apr. 1, 2004); published at 28 Ill. Reg. 10693, effective July 19, 2004.
- R05-2 RCRA Subtitle C Update, USEPA Regulations (January 1, 2004 through June 30, 2004 and October 25, 2004), R05-2 (Mar. 3, 2005); published at 29 Ill. Reg. 6290, effective April 22, 2005.
- R05-13 RCRA Subtitle C Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-13 (Feb. 3, 2005) (Dismissed because no federal actions in the period.)
- R06-7 RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-7 (Jan. 5, 2006 and Feb. 2, 2006).

(Consolidated with UIC Update docket R06-5 and RCRA Subtitle D Update docket R06-6.)

- R06-18 RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-18 (Nov. 16, 2006). (Consolidated with UIC Update docket R06-5 and RCRA Subtitle D Update docket R06-7.)
- R07-5 RCRA Subtitle C Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R07-5. (This docket, consolidated with RCRA Subtitle C Update docket R07-14.)
- R07-14 RCRA Subtitle C Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R07-14. (This docket, consolidated with RCRA Subtitle C Update docket R07-5.)
- R08-3 RCRA Subtitle C Update, USEPA Regulations (January 1, 2007 through June 30, 2007), R08-3 (Sep. 6, 2007) (Dismissed because no federal actions in the period.)
- R08-16 RCRA Subtitle C Update, USEPA Regulations (July 1, 2007 through December 31, 2007), R08-16. (Reserved docket.)

The Board has taken other actions since May 18, 2000 relating to administration of the Illinois hazardous waste program. The Board has made solid waste determinations by granting the following adjusted standards:

- AS 01-7 In re Petition of Progressive Environmental Services, Inc. for an Adjusted Standard under 35 Ill. Adm. Code 720.131(c), AS 02-7 (Jan. 10, 2002) (used automotive antifreeze).
- AS 02-2 In re Petition of World Recycling, Inc. d/b/a Planet Earth Antifreeze for an Adjusted Standard under 35 Ill. Adm. Code 720.131, AS 02-2 (May 2, 2002) (used automotive antifreeze).

The Board has also granted relief from a permit requirement applicable to hazardous waste management facility:

- AS 00-15 In re Petition of Heritage Environmental Services, LLC. for an Adjusted Standard from 35 Ill. Adm. Code 702.126(d)(1), AS 00-15 (Feb. 1, 2001) (alternative permit application certification language).

History of UIC Rules Adoption

The Board has adopted and amended Underground Injection Control (UIC) regulations in the following dockets since May 18, 2000:

- R00-11 UIC Update, USEPA Regulations (July 1, 1999 through December 31, 1999), R00-11 (Dec. 7, 2000); published at 25 Ill. Reg. 18585 (December 22, 2001), effective December 7, 2001. (Consolidated with docket R01-1.)
- R01-1 UIC Update, USEPA Regulations (Jan. 1, 2000 through June 30, 2000), R01-1 (Dec. 7, 2000); published at 25 Ill. Reg. 18585 (Dec. 22, 2001), effective December 7, 2001. (Consolidated with docket R00-11.)
- R01-21 UIC Update, USEPA Regulations (July 1, 2000 through December 31, 2000), R01-21 (May 17, 2001); published at 25 Ill. Reg. 9108 (July 20, 2001), effective July 9, 2001. (Consolidated with UIC update docket R01-23.)
- R02-17 UIC Update, USEPA Regulations (July 1, 2001 through December 31, 2001), R02-17 (Apr. 18, 2002); published at 26 Ill. Reg. 6667 (May 3, 2002), effective April 22, 2002. (Consolidated with RCRA Subtitle C Update dockets R02-1 and R02-12.)
- R03-5 UIC Update, USEPA Regulations (January 1, 2002 through June 30, 2002), R03-5 (Aug. 8, 2002). (Dismissed because no federal actions in the period.)
- R03-16 UIC Update, USEPA Regulations (July 1, 2002 through December 31, 2002), R03-16 (Feb. 6, 2003). (Dismissed because no federal actions in the period.)
- R04-4 UIC Update, USEPA Regulations (January 1, 2003 through June 30, 2003), R04-4 (Aug. 7, 2003). (Dismissed because no federal actions in the period.)
- R04-14 UIC Update, USEPA Regulations (July 1, 2003 through December 31, 2003), R04-14 (Mar. 4, 2004). (Dismissed because no federal actions in the period.)
- R05-7 UIC Update, USEPA Regulations (January 1, 2004 through June 30, 2004), R05-7 (Sept. 16, 2004). (Dismissed because no federal actions in the period.)
- R05-18 UIC Update, USEPA Regulations (July 1, 2004 through December 31, 2004), R05-18 (Feb. 3, 2005). (Dismissed because no federal actions in the period.)
- R06-5 UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-5 (Jan. 5, 2006 and Feb. 2, 2006). (Consolidated with RCRA

Subtitle D Update docket R06-6 and RCRA Subtitle C Update docket R06-7.)

- R06-16 UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R06-16 (Nov. 16, 2006). (Consolidated with RCRA Subtitle D Update docket R06-17 and RCRA Subtitle C Update docket R06-18.)
- R07-3 UIC Update, USEPA Regulations (January 1, 2006 through June 30, 2006), R07-3 (Sep. 21, 2006). (Dismissed because no federal actions in the period.)
- R07-12 UIC Update, USEPA Regulations (July 1, 2005 through December 31, 2005), R07-12 (Feb. 1, 2007). (Dismissed because no federal actions in the period.)
- R08-1 UIC Update, USEPA Regulations (January 1, 2007 through June 30, 2007), R08-1 (Sep. 6, 2007) (Dismissed because no federal actions in the period.)
- R08-14 UIC Update, USEPA Regulations (July 1, 2007 through December 31, 2007), R08-14 (Mar. 6, 2008). (Dismissed because no federal actions in the period.)

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion on March 20, 2008, by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board