

POLLUTION CONTROL BOARD
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Identification and Listing of Hazardous Waste

2) Code citation: 35 Ill. Adm. Code 721

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|----------------------------|-------------------------|
| 3) <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 721.104 | Amend |
| 721.105 | Amend |

4) Statutory Authority: 415 ILCS 5/7.2, 22.4 and 27

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is a single segment of the docket R14-13 rulemaking that also affects 35 Ill. Adm. Code 720, which is covered by a separate notice in this issue of the *Illinois Register*. To save space, a more detailed description of the subjects and issues involved in the docket R14-13 rulemaking in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Proposed Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of February 6, 2014, proposing amendments in docket R14-13, which opinion and order is available from the address below.

Specifically, this rulemaking implements segments of the federal amendments of July 31, 2013 and January 3, 2014. The amendments add the texts of the conditional exclusions. The Board has included a limited number of corrections and clarifying revisions that are not directly derived from the instant federal amendments.

Tables appear in the Board's opinion and order of February 6, 2014 in docket R14-13 that list numerous corrections and revisions that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and revisions should refer to the February 6, 2014 opinion and order in docket R14-13.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None



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- 7) Will this rulemaking replace and emergency rulemakings currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 11) Are there any other rulemakings pending on this Part? No
- 12) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R14-13 and be addressed to:

John T. Therriault, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Please direct inquiries to the following person and reference docket R14-13:

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312/814-6924
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Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small

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municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].

- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and the proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and the proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2012)].
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2014: published at 37 Ill. Reg. 20463, 20501 (December 20, 2013)

The full text of the Proposed Amendments begins on the next page:

JCAR350721-1405077r01

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

5
6 PART 721
7 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

8
9 SUBPART A: GENERAL PROVISIONS

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10
11 Section

- 12 721.101 Purpose and Scope
13 721.102 Definition of Solid Waste
14 721.103 Definition of Hazardous Waste
15 721.104 Exclusions
16 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity
17 Generators
18 721.106 Requirements for Recyclable Materials
19 721.107 Residues of Hazardous Waste in Empty Containers
20 721.108 PCB Wastes Regulated under TSCA
21 721.109 Requirements for Universal Waste

22
23 SUBPART B: CRITERIA FOR IDENTIFYING THE
24 CHARACTERISTICS OF HAZARDOUS WASTE
25 AND FOR LISTING HAZARDOUS WASTES
26

27 Section

- 28 721.110 Criteria for Identifying the Characteristics of Hazardous Waste
29 721.111 Criteria for Listing Hazardous Waste

30
31 SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE
32

33 Section

- 34 721.120 General
35 721.121 Characteristic of Ignitability
36 721.122 Characteristic of Corrosivity
37 721.123 Characteristic of Reactivity
38 721.124 Toxicity Characteristic
39

40 SUBPART D: LISTS OF HAZARDOUS WASTE
41

42 Section

- 43 721.130 General

- 44 721.131 Hazardous Wastes from Nonspecific Sources
- 45 721.132 Hazardous Waste from Specific Sources
- 46 721.133 Discarded Commercial Chemical Products, Off-Specification Species, Container
- 47 Residues, and Spill Residues Thereof
- 48 721.135 Wood Preserving Wastes

50 SUBPART E: EXCLUSIONS AND EXEMPTIONS

- 51 Section
- 52 721.138 Exclusion of Comparable Fuel and Syngas Fuel
- 53 721.139 Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass
- 54 Undergoing Recycling
- 55 721.140 Conditional Exclusion for Used, Intact CRTs Exported for Recycling
- 56 721.141 Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

57

58 SUBPART H: FINANCIAL REQUIREMENTS FOR MANAGEMENT

59 OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

- 60
- 61 Section
- 62 721.240 Applicability
- 63 721.241 Definitions of Terms as Used in This Subpart
- 64 721.242 Cost Estimate
- 65 721.243 Financial Assurance Condition
- 66 721.247 Liability Requirements
- 67 721.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions
- 68 721.249 Use of State-Required Mechanisms
- 69 721.250 State Assumption of Responsibility
- 70 721.251 Wording of the Instruments
- 71
- 72 721.APPENDIX A Representative Sampling Methods
- 73 721.APPENDIX B Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)
- 74 (Repealed)
- 75 721.APPENDIX C Chemical Analysis Test Methods (Repealed)
- 76 721.TABLE A Analytical Characteristics of Organic Chemicals (Repealed)
- 77 721.TABLE B Analytical Characteristics of Inorganic Species (Repealed)
- 78 721.TABLE C Sample Preparation/Sample Introduction Techniques (Repealed)
- 79 721.APPENDIX G Basis for Listing Hazardous Wastes
- 80 721.APPENDIX H Hazardous Constituents
- 81 721.APPENDIX I Wastes Excluded by Administrative Action
- 82 721.TABLE A Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22
- 83 from Non-Specific Sources
- 84 721.TABLE B Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22
- 85 from Specific Sources
- 86 721.TABLE C Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22

| | | |
|----|----------------|---|
| 87 | | from Commercial Chemical Products, Off-Specification Species, |
| 88 | | Container Residues, and Soil Residues Thereof |
| 89 | 721.TABLE D | Wastes Excluded by the Board by Adjusted Standard |
| 90 | 721.APPENDIX J | Method of Analysis for Chlorinated Dibenzo-p-Dioxins and |
| 91 | | Dibenzofurans (Repealed) |
| 92 | 721.APPENDIX Y | Table to Section 721.138: Maximum Contaminant Concentration and |
| 93 | | Minimum Detection Limit Values for Comparable Fuel Specification |
| 94 | 721.APPENDIX Z | Table to Section 721.102: Recycled Materials that Are Solid Waste |

96 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the
 97 Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].
 98

99 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and
 100 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.
 101 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12,
 102 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in
 103 R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998,
 104 effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986;
 105 amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill.
 106 Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective
 107 March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in
 108 R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg.
 109 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January
 110 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39
 111 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective
 112 December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989;
 113 amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill.
 114 Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective
 115 May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-
 116 1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155,
 117 effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992;
 118 amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg.
 119 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26,
 120 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-
 121 16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175,
 122 effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994;
 123 amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill.
 124 Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275,
 125 effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998;
 126 amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended
 127 in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at
 128 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June
 129 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-

130 21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26
 131 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July
 132 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at
 133 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992,
 134 effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective
 135 December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008;
 136 amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4
 137 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg.
 138 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4,
 139 2013; amended in R14-13 at 38 Ill. Reg. _____, effective _____.

141 **SUBPART A: GENERAL PROVISIONS**

142
 143 **Section 721.104 Exclusions**

144
 145 a) Materials that are not solid wastes. The following materials are not solid wastes
 146 for the purpose of this Part:

147
 148 1) Sewage.

149
 150 A) Domestic sewage (untreated sanitary wastes that pass through a
 151 sewer system); and

152
 153 B) Any mixture of domestic sewage and other waste that passes
 154 through a sewer system to publicly-owned treatment works for
 155 treatment.

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

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

166
 167 3) Irrigation return flows.

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

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- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
 - 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
 - 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).
 - 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
 - A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
 - 9) Wood preserving wastes.
 - A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B) of this Section, so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended

- 216 purpose;
- 217
- 218 ii) Prior to reuse, the wastewaters and spent wood preserving
- 219 solutions are managed to prevent release to either land or
- 220 groundwater or both;
- 221
- 222 iii) Any unit used to manage wastewaters or spent wood
- 223 preserving solutions prior to reuse can be visually or
- 224 otherwise determined to prevent such releases;
- 225
- 226 iv) Any drip pad used to manage the wastewaters or spent
- 227 wood preserving solutions prior to reuse complies with the
- 228 standards in Subpart W of 35 Ill. Adm. Code 725,
- 229 regardless of whether the plant generates a total of less than
- 230 100 kg/month of hazardous waste; and
- 231
- 232 v) Prior to operating pursuant to this exclusion, the plant
- 233 owner or operator prepares a one-time notification to the
- 234 Agency stating that the plant intends to claim the exclusion,
- 235 giving the date on which the plant intends to begin
- 236 operating under the exclusion, and containing the following
- 237 language: "I have read the applicable regulation
- 238 establishing an exclusion for wood preserving wastewaters
- 239 and spent wood preserving solutions and understand it
- 240 requires me to comply at all times with the conditions set
- 241 out in the regulation." The plant must maintain a copy of
- 242 that document in its on-site records until closure of the
- 243 facility. The exclusion applies only so long as the plant
- 244 meets all of the conditions. If the plant goes out of
- 245 compliance with any condition, it may apply to the Agency
- 246 for reinstatement. The Agency must reinstate the exclusion
- 247 in writing if it finds that the plant has returned to
- 248 compliance with all conditions and that the violations are
- 249 not likely to recur. If the Agency denies an application, it
- 250 must transmit to the applicant specific, detailed statements
- 251 in writing as to the reasons it denied the application. The
- 252 applicant under this subsection (a)(9)(C)(v) may appeal the
- 253 Agency's determination to deny the reinstatement, to grant
- 254 the reinstatement with conditions, or to terminate a
- 255 reinstatement before the Board pursuant to Section 40 of
- 256 the Act [415 ILCS 5/40].
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10) Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145,

259 K147, and K148, and any wastes from the coke by-products processes that
 260 are hazardous only because they exhibit the toxicity characteristic
 261 specified in Section 721.124, when subsequent to generation these
 262 materials are recycled to coke ovens, to the tar recovery process as a
 263 feedstock to produce coal tar, or are mixed with coal tar prior to the tar's
 264 sale or refining. This exclusion is conditioned on there being no land
 265 disposal of the waste from the point it is generated to the point it is
 266 recycled to coke ovens, to tar recovery, to the tar refining processes, or
 267 prior to when it is mixed with coal.
 268

269 11) Nonwastewater splash condenser dross residue from the treatment of
 270 hazardous waste number K061 in high temperature metals recovery units,
 271 provided it is shipped in drums (if shipped) and not land disposed before
 272 recovery.
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274 12) Certain oil-bearing hazardous secondary materials and recovered oil, as
 275 follows:
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277 A) Oil-bearing hazardous secondary materials (i.e., sludges, by-
 278 products, or spent materials) that are generated at a petroleum
 279 refinery (standard industrial classification (SIC) code 2911) and
 280 are inserted into the petroleum refining process (SIC code 2911:
 281 including, but not limited to, distillation, catalytic cracking,
 282 fractionation, gasification (as defined in 35 Ill. Adm. Code
 283 720.110), or thermal cracking units (i.e., cokers)), unless the
 284 material is placed on the land, or speculatively accumulated before
 285 being so recycled. Materials inserted into thermal cracking units
 286 are excluded under this subsection (a)(12), provided that the coke
 287 product also does not exhibit a characteristic of hazardous waste.
 288 Oil-bearing hazardous secondary materials may be inserted into the
 289 same petroleum refinery where they are generated or sent directly
 290 to another petroleum refinery and still be excluded under this
 291 provision. Except as provided in subsection (a)(12)(B) of this
 292 Section, oil-bearing hazardous secondary materials generated
 293 elsewhere in the petroleum industry (i.e., from sources other than
 294 petroleum refineries) are not excluded under this Section.
 295 Residuals generated from processing or recycling materials
 296 excluded under this subsection (a)(12)(A), where such materials as
 297 generated would have otherwise met a listing under Subpart D of
 298 this Part, are designated as USEPA hazardous waste number F037
 299 listed wastes when disposed of or intended for disposal.
 300

301 B) Recovered oil that is recycled in the same manner and with the

302 same conditions as described in subsection (a)(12)(A) of this
 303 Section. Recovered oil is oil that has been reclaimed from
 304 secondary materials (including wastewater) generated from normal
 305 petroleum industry practices, including refining, exploration and
 306 production, bulk storage, and transportation incident thereto (SIC
 307 codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922,
 308 4923, 4789, 5171, and 5172). Recovered oil does not include oil-
 309 bearing hazardous wastes listed in Subpart D of this Part; however,
 310 oil recovered from such wastes may be considered recovered oil.
 311 Recovered oil does not include used oil, as defined in 35 Ill. Adm.
 312 Code 739.100.

- 313
- 314 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap
- 315 metal, and unprocessed prompt scrap metal) being recycled.
- 316
- 317 14) Shredded circuit boards being recycled, provided that they meet the
- 318 following conditions:
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- 320 A) The circuit boards are stored in containers sufficient to prevent a
- 321 release to the environment prior to recovery; and
- 322
- 323 B) The circuit boards are free of mercury switches, mercury relays,
- 324 nickel-cadmium batteries, and lithium batteries.
- 325
- 326 15) Condensates derived from the overhead gases from kraft mill steam
- 327 strippers that are used to comply with federal Clean Air Act regulation 40
- 328 CFR 63.446(e). The exemption applies only to combustion at the mill
- 329 generating the condensates.
- 330
- 331 16) Comparable fuels or comparable syngas fuels that meet the requirements
- 332 of Section 721.138.
- 333
- 334 17) Spent materials (as defined in Section 721.101) (other than hazardous
- 335 wastes listed in Subpart D of this Part) generated within the primary
- 336 mineral processing industry from which minerals, acids, cyanide, water, or
- 337 other values are recovered by mineral processing or by
- 338 beneficiation~~benefication~~, provided that the following is true:
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- 340 A) The spent material is legitimately recycled to recover minerals,
- 341 acids, cyanide, water, or other values;
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- 343 B) The spent material is not accumulated speculatively;
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- C) Except as provided in subsection (a)(17)(D) of this Section, the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.
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- D) The Agency must allow by permit that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
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- i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.
- ii) Pads must meet the following minimum standards: they

388 must be designed of non-earthen material that is compatible
 389 with the chemical nature of the mineral processing spent
 390 material; they must be capable of withstanding physical
 391 stresses associated with placement and removal; they must
 392 have runoff and runoff controls; they must be operated in a
 393 manner that controls fugitive dust; and they must have
 394 integrity assurance through inspections and maintenance
 395 programs.

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 397 iii) Before making a determination under this subsection
 398 (a)(17)(D), the Agency must provide notice and the
 399 opportunity for comment to all persons potentially
 400 interested in the determination. This can be accomplished
 401 by placing notice of this action in major local newspapers,
 402 or broadcasting notice over local radio stations.

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

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

414
 415 F) For purposes of subsection (b)(7) of this Section, mineral
 416 processing spent materials must be the result of mineral processing
 417 and may not include any listed hazardous wastes. Listed
 418 hazardous wastes and characteristic hazardous wastes generated by
 419 non-mineral processing industries are not eligible for the
 420 conditional exclusion from the definition of solid waste.

421
 422 18) Petrochemical recovered oil from an associated organic chemical
 423 manufacturing facility, where the oil is to be inserted into the petroleum
 424 refining process (SIC code 2911) along with normal petroleum refinery
 425 process streams, provided that both of the following conditions are true of
 426 the oil:

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

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- B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
- B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
- i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
- ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained

474 in a way that prevents releases of the secondary materials
 475 into the environment. At a minimum, any building used for
 476 this purpose must be an engineered structure made of non-
 477 earthen materials that provide structural support, and it
 478 must have a floor, walls, and a roof that prevent wind
 479 dispersal and contact with rainwater. A tank used for this
 480 purpose must be structurally sound and, if outdoors, it must
 481 have a roof or cover that prevents contact with wind and
 482 rain. A container used for this purpose must be kept
 483 closed, except when it is necessary to add or remove
 484 material, and it must be in sound condition. Containers that
 485 are stored outdoors must be managed within storage areas
 486 that fulfill the conditions of subsection (a)(20)(F) of this
 487 Section:

- 488
- 489 iii) With each off-site shipment of excluded hazardous
 490 secondary materials, it must provide written notice to the
 491 receiving facility that the material is subject to the
 492 conditions of this subsection (a)(20).
- 493
- 494 iv) It must maintain records at the generator's or intermediate
 495 handler's facility for no less than three years of all
 496 shipments of excluded hazardous secondary materials. For
 497 each shipment these records must, at a minimum, contain
 498 the information specified in subsection (a)(20)(G) of this
 499 Section.

500

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

- 504
- 505 i) It must store excluded hazardous secondary materials in
 506 accordance with the storage requirements for generators
 507 and intermediate handlers, as specified in subsection
 508 (a)(20)(B)(ii) of this Section.
- 509
- 510 ii) It must submit a one-time notification to the Agency that, at
 511 a minimum, specifies the name, address, and USEPA
 512 identification number of the manufacturing facility and
 513 which identifies when the manufacturer intends to begin
 514 managing excluded zinc-bearing hazardous secondary
 515 materials under the conditions specified in this subsection
 516 (a)(20).

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- iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
- iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.

- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.
- F) A container used to store excluded secondary material must fulfill the following conditions:
 - i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) It must prevent run-on into the containment system.

560 BOARD NOTE: Subsections (a)(20)(F)(i) through (a)(20)(F)(iii)
 561 are derived from 40 CFR 261.4(a)(20)(ii)(B)(1) through
 562 (a)(20)(ii)(B)(3). The Board added the preamble to these federal
 563 paragraphs as subsection (a)(20)(F) to comport with Illinois
 564 Administrative Code codification requirements.
 565

566 G) Required records of shipments of excluded hazardous secondary
 567 materials must, at a minimum, contain the following information:
 568

- 569 i) The name of the transporter and date of the shipment;
- 570
- 571 ii) The name and address of the facility that received the
 572 excluded material, along with documentation confirming
 573 receipt of the shipment; and
 574
- 575 iii) The type and quantity of excluded secondary material in
 576 each shipment.
 577

578 BOARD NOTE: Subsections (a)(20)(G)(i) through (a)(20)(G)(iii)
 579 are derived from 40 CFR 261.4(a)(20)(ii)(D)(1) through
 580 (a)(20)(ii)(D)(3). The Board added the preamble to these federal
 581 paragraphs as subsection (a)(20)(G) to comport with Illinois
 582 Administrative Code codification requirements.
 583

584 21) Zinc fertilizers made from hazardous wastes or hazardous secondary
 585 materials that are excluded under subsection (a)(20) of this Section,
 586 provided that the following conditions are fulfilled:
 587

588 A) The fertilizers meet the following contaminant limits:
 589

590 i) For metal contaminants:
 591

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

592
 593 ii) For dioxin contaminants, the fertilizer must contain no
 594 more than eight parts per trillion of dioxin, measured as
 595 toxic equivalent (TEQ).

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B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

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

- i) The dates and times product samples were taken, and the dates the samples were analyzed;
- ii) The names and qualifications of the persons taking the samples;
- iii) A description of the methods and equipment used to take the samples;
- iv) The name and address of the laboratory facility at which analyses of the samples were performed;
- v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
- vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).

22) Used CRTs.

A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed

- 639 of or speculatively accumulated, as defined in Section
 640 721.101(c)(8), by a CRT collector or glass processor.
 641
 642 B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are
 643 not solid waste when exported for recycling, provided that they
 644 meet the requirements of Section 721.140.
 645
 646 C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are
 647 not solid waste, provided that they meet the requirements of
 648 Section 721.139.
 649
 650 D) Glass removed from CRTs is not a solid waste provided that it
 651 meets the requirements of Section 721.139(c).
 652
 653 23) Hazardous secondary materials managed in land-based units. Hazardous
 654 secondary material generated and reclaimed within the United States or its
 655 territories and managed in land-based units, as defined in 35 Ill. Adm.
 656 Code 720.110, is not a solid waste if the following conditions are fulfilled
 657 with regard to the material:
 658
 659 A) The material is contained;
 660
 661 B) The material is a hazardous secondary material generated and
 662 reclaimed under the control of the generator, as defined in 35 Ill.
 663 Adm. Code 720.110;
 664
 665 C) The material is not speculatively accumulated, as defined in
 666 Section 721.101(c)(8);
 667
 668 D) The material is not otherwise subject to material-specific
 669 management conditions under subsection (a) of this Section when
 670 reclaimed, it is not a spent lead acid battery (see 35 Ill. Adm. Code
 671 726.180 and 733.102), and it does not meet either of the listing
 672 descriptions for K171 or K172 waste in Section 721.132;
 673
 674 E) The reclamation of the material is legitimate, as determined
 675 pursuant to 35 Ill. Adm. Code 720.143; and
 676
 677 F) In addition, a person claiming the exclusion under this subsection
 678 (a)(23) must provide notification of regulated waste activity, as
 679 required by 35 Ill. Adm. Code 720.142. (For hazardous secondary
 680 material managed in a non-land-based unit, see Section
 681 721.102(a)(2)(B)).

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- 24) Hazardous secondary materials transferred for off-site recycling. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G) of this Section:
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.110).
 - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.
 - C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed; the material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102); and the material must not fulfill either of the listing descriptions for K171 or K172 waste in Section 721.132.
 - D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.
 - E) The hazardous secondary material generator must satisfy each of the following conditions:
 - i) The hazardous secondary material must be contained.
 - ii) This subsection (a)(24)(E)(ii) applies when non-RCRA management of hazardous secondary material will occur at a reclamation facility or transfer facility. For the purposes of this subsection (a)(24), "non-Subtitle C management" is management of the hazardous secondary material that is not addressed under a RCRA Part B permit or under the interim status facility standards (of 35 Ill. Adm. Code 725 or similar regulations authorized by USEPA as equivalent to 40 CFR 265). Prior to arranging for transport of hazardous

725 secondary materials to a reclamation facility where non-
 726 Subtitle C management will occur, the hazardous secondary
 727 material generator must make reasonable efforts to ensure
 728 that the reclaimer intends to properly and legitimately
 729 reclaim the hazardous secondary material and not discard
 730 it, and that the reclaimer will manage the hazardous
 731 secondary material in a manner that is protective of human
 732 health and the environment. If the hazardous secondary
 733 material will pass through an intermediate facility where
 734 non-RCRA management will occur, the hazardous
 735 secondary material generator must make contractual
 736 arrangements with the intermediate facility to ensure that
 737 the hazardous secondary material is sent to the reclamation
 738 facility identified by the hazardous secondary material
 739 generator, and the hazardous secondary material generator
 740 must perform reasonable efforts to ensure that the
 741 intermediate facility will manage the hazardous secondary
 742 material in a manner that is protective of human health and
 743 the environment. Reasonable efforts must be repeated at a
 744 minimum of once every three years for the hazardous
 745 secondary material generator to claim the exclusion of this
 746 subsection (a)(24) and to send the hazardous secondary
 747 materials to a reclaimer and any intermediate facility. In
 748 making these reasonable efforts, the generator may use any
 749 credible evidence available, including information gathered
 750 by the hazardous secondary material generator, provided by
 751 the reclaimer or intermediate facility, or provided by a third
 752 party. The hazardous secondary material generator must
 753 make the series of affirmative determinations set forth in
 754 subsection (a)(24)(H) of this Section for each reclamation
 755 facility and intermediate facility that will manage its waste.

756
 757 BOARD NOTE: Corresponding 40 CFR
 758 261.4(a)(24)(v)(B) makes it clear that USEPA intends that
 759 the generator undertake this determination for each
 760 reclaimer that will manage its hazardous secondary
 761 material. The Board added a definition of "non-Subtitle C
 762 management" and substituted this term for the language
 763 "management of the hazardous secondary materials is not
 764 addressed under a RCRA Part B permit or interim status
 765 standards." Although the Board shifted the language for
 766 enhanced readability, the Board intends no shift in
 767 meaning. The Board moved the material from 40 CFR

768 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as
769 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through
770 (a)(24)(H)(v). This movement allowed compliance with
771 codification requirements relating to the maximum
772 permissible indent level.

773
774 iii) The hazardous secondary material generator must execute a
775 certification statement that includes the following language,
776 together with the printed name and official title of an
777 authorized representative of the hazardous secondary
778 material generator, the authorized representative's
779 signature, and the date signed:

780
781 "I hereby certify in good faith and to the best of my
782 knowledge that, prior to arranging for transport of
783 excluded hazardous secondary materials to [insert
784 the name of each reclamation facility and any
785 intermediate facility that will manage the materials],
786 reasonable efforts were made in accordance with 35
787 Ill. Adm. Code 721.104(a)(24)(E)(ii) (and
788 corresponding 40 CFR 261.4(a)(24)(v)(B)) to
789 ensure that the hazardous secondary materials
790 would be recycled legitimately and would be
791 otherwise managed in a manner that is protective of
792 human health and the environment, and that such
793 efforts were based on current and accurate
794 information."

795
796 BOARD NOTE: Corresponding 40 CFR
797 261.4(a)(24)(v)(C) combines the requirements for records
798 retention and availability for inspection with the
799 requirement for certification. The Board combined the
800 certification requirements from 40 CFR 261.4(a)(24)(v)(C),
801 (a)(24)(v)(C)(1), and (a)(24)(v)(C)(2) in this single
802 subsection (a)(24)(E)(iii). This combination allowed
803 compliance with codification requirements relating to the
804 maximum permissible indent level. The Board moved the
805 records retention and availability for inspection
806 requirements to subsection (a)(24)(E)(iv) of this Section.
807 This forced renumbering 40 CFR 261.4(a)(24)(v)(D) and
808 (a)(24)(v)(E) as subsections (a)(24)(E)(v) and
809 (a)(24)(E)(vi) of this Section. Although the Board shifted

810 the language for enhanced readability, the Board intends no
811 shift in meaning.

812
813 iv) The hazardous secondary material generator must maintain
814 the following records for a minimum of three years:
815 documentation and certification that the generator made
816 reasonable efforts, prior to transferring hazardous
817 secondary material, for each reclamation facility and, if
818 applicable, intermediate facility where non-Subtitle C
819 management of the hazardous secondary materials will
820 occur. Documentation and certification must be made
821 available, within 72 hours, or within any longer period of
822 time specified by the Agency, upon request by the Agency.

823
824 BOARD NOTE: The Board moved the records retention
825 and availability for inspection requirements of
826 corresponding 40 CFR 261.4(a)(24)(v)(C) to this
827 subsection (a)(24)(E)(iv).

828
829 v) The hazardous secondary material generator must maintain
830 certain records at the generating facility for a minimum of
831 three years that document every off-site shipment of
832 hazardous secondary materials. The documentation for
833 each shipment must, at a minimum, include the following
834 information about the shipment: the name of the
835 transporter and date of the shipment; the name and address
836 of each reclaimer and intermediate facility to which the
837 hazardous secondary material was sent; and the type and
838 quantity of hazardous secondary material in the shipment.

839
840 BOARD NOTE: The Board combined and moved the
841 shipping documentation and records retention requirements
842 of corresponding 40 CFR 261.4(a)(24)(v)(D) and
843 (a)(24)(v)(D)(1) through (a)(24)(v)(D)(3) to this single
844 subsection (a)(24)(E)(v). This combination allowed
845 compliance with codification requirements relating to the
846 maximum permissible indent level.

847
848 vi) The hazardous secondary material generator must maintain
849 at the generating facility, for a minimum of three years, for
850 every off-site shipment of hazardous secondary materials,
851 confirmations of receipt from each reclaimer and
852 intermediate facility to which its hazardous secondary

853 materials were sent. Each confirmation of receipt must
854 include the name and address of the reclaimer (or
855 intermediate facility), the type and quantity of the
856 hazardous secondary materials received, and the date on
857 which the facility received the hazardous secondary
858 materials. The generator may satisfy this requirement
859 using routine business records (e.g., financial records, bills
860 of lading, copies of DOT shipping papers, or electronic
861 confirmations of receipt).

862
863 BOARD NOTE: The Board moved the shipment
864 confirmation documentation and records retention
865 requirements of corresponding 40 CFR 261.4(a)(24)(v)(E)
866 to this subsection (a)(24)(E)(vi).

867
868 F) The reclaimer of hazardous secondary material or any intermediate
869 facility, as defined in 35 Ill. Adm. Code 720.110, that manages
870 material which is excluded from regulation pursuant to this
871 subsection (a)(24) must satisfy all of the following conditions:

872
873 i) The owner or operator of a reclamation or intermediate
874 facility must maintain at its facility for a minimum of three
875 years records of every shipment of hazardous secondary
876 material that the facility received and, if applicable, for
877 every shipment of hazardous secondary material that the
878 facility received and subsequently sent off-site from the
879 facility for further reclamation. For each shipment, these
880 records must, at a minimum, contain the following
881 information: the name of the transporter and date of the
882 shipment; the name and address of the hazardous secondary
883 material generator and, if applicable, the name and address
884 of the reclaimer or intermediate facility from which the
885 facility received the hazardous secondary materials; the
886 type and quantity of hazardous secondary material in the
887 shipment; and, for hazardous secondary materials that the
888 facility subsequently transferred off-site for further
889 reclamation after receiving it, the name and address of the
890 (subsequent) reclaimer and any intermediate facility to
891 which the facility sent the hazardous secondary material.

892
893 BOARD NOTE: The Board combined the provisions from
894 40 CFR 261.4(a)(24)(vi)(A) and (a)(24)(vi)(A)(1) through
895 (a)(24)(vi)(A)(3) that enumerate the required information

- 896 into this single subsection (a)(24)(F)(i). This combination
 897 allowed compliance with codification requirements relating
 898 to the maximum permissible indent level.
 899
- 900 ii) The intermediate facility must send the hazardous
 901 secondary material to the reclaimers designated by the
 902 generator of the hazardous secondary materials.
 903
- 904 iii) The reclaimer or intermediate facility that receives a
 905 shipment of hazardous secondary material must send a
 906 confirmation of receipt to the hazardous secondary material
 907 generator for each off-site shipment of hazardous
 908 secondary materials. A confirmation of receipt must
 909 include the name and address of the reclaimer (or
 910 intermediate facility), the type and quantity of the
 911 hazardous secondary materials received, and the date on
 912 which the facility received the hazardous secondary
 913 materials. The reclaimer or intermediate facility may
 914 satisfy this requirement using routine business records (e.g.,
 915 financial records, bills of lading, copies of DOT shipping
 916 papers, or electronic confirmations of receipt).
 917
- 918 iv) The reclaimer or intermediate facility must manage the
 919 hazardous secondary material in a manner that is at least as
 920 protective of human health and the environment as that
 921 employed for analogous raw material, and the material
 922 must be contained. An "analogous raw material" is a raw
 923 material for which the hazardous secondary material
 924 substitutes and that serves the same function and has
 925 similar physical and chemical properties as the hazardous
 926 secondary material.
 927
- 928 v) A reclaimer of hazardous secondary materials must manage
 929 any residuals that are generated from its reclamation
 930 processes in a manner that is protective of human health
 931 and the environment. If any residuals of the reclamation
 932 process exhibit a characteristic of hazardous waste, as
 933 defined in Subpart C of this Part, or if the residuals
 934 themselves are specifically listed as hazardous waste in
 935 Subpart D of this Part, those residuals are hazardous waste.
 936 The reclaimer and any subsequent persons must manage
 937 that hazardous waste in accordance with the applicable
 938 requirements of 35 Ill. Adm. Code: Subtitle G or similar

- 939 regulations authorized by USEPA as equivalent to 40 CFR
 940 260 through 272.
- 941
- 942 vi) The reclaimer and intermediate facility must have financial
 943 assurance that satisfies the requirements of Subpart H of
 944 this Part.
- 945
- 946 G) Any person claiming the exclusion for recycled hazardous
 947 secondary material pursuant to this subsection (a)(24) must provide
 948 notification as required by 35 Ill. Adm. Code 720.142.
- 949
- 950 H) For the purposes of subsection (a)(24)(E)(ii) of this Section, the
 951 hazardous secondary material generator must affirmatively
 952 determine that each of the following conditions is true for each
 953 reclamation facility and any intermediate facility that will manage
 954 the generator's hazardous secondary material:
- 955
- 956 i) Available information indicates that the reclamation
 957 process is legitimate recycling, as determined pursuant to
 958 35 Ill. Adm. Code 720.143. In making this determination,
 959 the hazardous secondary material generator may rely on its
 960 existing knowledge of the physical and chemical properties
 961 of the hazardous secondary material, as well as on
 962 information from other sources (e.g., the reclamation
 963 facility, audit reports, etc.) about the reclamation process.
 964 (By making this determination, the hazardous secondary
 965 material generator has also satisfied the requirement in 35
 966 Ill. Adm. Code 720.143(a) that the generator demonstrate
 967 that the recycling is legitimate).
- 968
- 969 ii) Publicly available information indicates that each
 970 reclamation facility and any intermediate facility that is
 971 used by the hazardous secondary material generator has
 972 submitted the notification required by 35 Ill. Adm. Code
 973 720.142, and these facilities have submitted the required
 974 proofs of financial assurance as required by the applicable
 975 of Section 721.243(a)(1), (b)(1), (c)(1), (d)(1), (e)(3), and
 976 (g) and notification of financial assurance pursuant to 35
 977 Ill. Adm. Code 720.142(a)(5). In making this dual
 978 determination, the hazardous secondary material generator
 979 may rely on the available information documenting the
 980 reclamation facility's and any intermediate facility's
 981 compliance with the notification requirements pursuant to

982 35 Ill. Adm. Code 720.142, including the requirement in 35
 983 Ill. Adm. Code 720.142(a)(5) to notify the Agency whether
 984 the reclaimer or intermediate facility has financial
 985 assurance.

- 986
- 987 iii) Publicly available information indicates that each
- 988 reclamation facility and any intermediate facility that is
- 989 used by the hazardous secondary material generator has not
- 990 had any formal enforcement actions taken against the
- 991 facility within the previous three years for violations of the
- 992 RCRA hazardous waste regulations, and the facility has not
- 993 been classified as a significant non-complier (SNC) with
- 994 RCRA Subtitle C requirements. In making this
- 995 determination, the hazardous secondary material generator
- 996 may rely on the publicly available information from
- 997 USEPA, the Agency, or the Office of the Attorney General.
- 998 If the reclamation facility or any intermediate facility that is
- 999 used by the hazardous secondary material generator has had
- 1000 a formal enforcement action taken against the facility
- 1001 within the previous three years for violations of the RCRA
- 1002 hazardous waste regulations, or if the facility has been
- 1003 classified as a SNC with RCRA Subtitle C requirements,
- 1004 the hazardous secondary material generator must have
- 1005 credible evidence that the facility will manage the
- 1006 hazardous secondary materials properly. In making this
- 1007 determination, the hazardous secondary material generator
- 1008 can obtain additional information from USEPA, the
- 1009 Agency, the Office of the Attorney General, or the facility
- 1010 itself which indicates that the facility has addressed the
- 1011 violations, taken remedial steps to address the violations
- 1012 and prevent future violations, or that the violations are not
- 1013 relevant to the proper management of the generator's
- 1014 hazardous secondary materials.

1015

1016 BOARD NOTE: USEPA or a state may make a formalized

1017 determination that a facility is a SNC (pronounced "snick")

1018 pursuant to USEPA's "Hazardous Waste Civil Enforcement

1019 Response Policy" (most recent version: December 2003,

1020 available from USEPA, Envirofacts Data Warehouse

1021 (www.epa.gov/compliance/resources/policies/civil/rcra/finalerp1203.pdf)). USEPA operates the online RCRAInfo

1022 database (www.epa.gov/enviro/html/rcris/) from which

1023 interested persons can learn whether a facility has

1024

1025 significant federal enforcement action against it, or if it is a
1026 SNC.

1027
1028 iv) Available information indicates that the reclamation facility
1029 and any intermediate facility used by the hazardous
1030 secondary material generator have the equipment and
1031 trained personnel to safely recycle the hazardous secondary
1032 material. In making this determination, the generator may
1033 rely on a description made by the reclamation facility or an
1034 independent third party of the equipment and trained
1035 personnel that the facility will use to manage and recycle
1036 the generator's hazardous secondary material.

1037
1038 v) If residuals are generated from the reclamation of the
1039 excluded hazardous secondary materials, the reclamation
1040 facility has the permits required (if any) to manage the
1041 residuals. If the reclamation facility does not have required
1042 permits, the facility has a contract with an appropriately
1043 permitted facility to dispose of the residuals. If the
1044 reclamation facility does not have required permits or a
1045 contract with a permitted facility, the hazardous secondary
1046 material generator has credible evidence that the residuals
1047 will be managed in a manner that is protective of human
1048 health and the environment. In making these
1049 determinations, the hazardous secondary material generator
1050 may rely on publicly available information from USEPA or
1051 the Agency, or on information provided by the facility
1052 itself.

1053
1054 BOARD NOTE: The Board moved 40 CFR 261.4(a)(24)(v)(B)(1)
1055 through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code
1056 721.104(a)(24)(H)(i) through (a)(24)(H)(v), which set forth the
1057 determinations mandated for the purposes of subsection
1058 (a)(24)(E)(ii). This movement allowed compliance with
1059 codification requirements relating to the maximum permissible
1060 indent level.

1061
1062 25) Hazardous secondary materials exported for recycling. Hazardous
1063 secondary material that is exported from the United States and reclaimed
1064 at a reclamation facility located in a foreign country is not a solid waste,
1065 so long as the hazardous secondary material generator complies with the
1066 applicable requirements of subsections (a)(24)(A) through (a)(24)(E) of
1067 this Section, except that the requirements of subsection (a)(24)(H)(ii) of

1068 this Section (requiring the use of publicly available information to verify
1069 that the facility has submitted required notifications) do not apply to
1070 foreign reclaimers and intermediate facilities, and the hazardous secondary
1071 material generator also complies with the following requirements:
1072

1073 A) The generator must notify the Agency and USEPA of an intended
1074 export before the hazardous secondary material is scheduled to
1075 leave the United States. The generator must submit a complete
1076 notification at least 60 days before the initial shipment is intended
1077 to be shipped off-site. This notification may cover export activities
1078 extending over a period up to 12 months in duration, but not
1079 longer. The notification must be in writing and signed by the
1080 hazardous secondary material generator, and must include the
1081 following information:
1082

- 1083 i) The name, mailing address, telephone number and USEPA
1084 identification number (if applicable) of the hazardous
1085 secondary material generator;
1086
- 1087 ii) A description of the hazardous secondary material; the
1088 USEPA hazardous waste number that would apply were the
1089 hazardous secondary material to be managed as hazardous
1090 waste; and the USDOT proper shipping name, hazard class,
1091 and identification number (UN or NA number) for each
1092 hazardous secondary material, as identified in 49 CFR 171
1093 through 173, each incorporated by reference in 35 Ill. Adm.
1094 Code 720.111;
1095
- 1096 iii) The estimated frequency or rate at which the hazardous
1097 secondary material is to be exported, and the period of time
1098 over which the hazardous secondary material is to be
1099 exported;
1100
- 1101 iv) The estimated total quantity of hazardous secondary
1102 material;
1103
- 1104 v) All points of entry to and departure from each foreign
1105 country through which the hazardous secondary material
1106 will pass;
1107
- 1108 vi) A description of the means by which each shipment of the
1109 hazardous secondary material will be transported (e.g.,

- 1110 mode of transportation vehicle (air, highway, rail, water,
1111 etc.), and the types of container (drums, boxes, tanks, etc.);
1112
- 1113 vii) A description of the manner in which the hazardous
1114 secondary material will be reclaimed in the receiving
1115 country;
1116
- 1117 viii) The name and address of each reclaimer, any intermediate
1118 facility, and any alternative reclaimer and intermediate
1119 facilities; and
1120
- 1121 ix) The name of any transit countries through which the
1122 hazardous secondary material will be sent, together with a
1123 description of the approximate length of time the material
1124 will remain in each transit country and the nature of the
1125 handling of the material while in the country (for purposes
1126 of this Section, the meanings of the terms
1127 "Acknowledgement of Consent," "receiving country," and
1128 "transit country" are as defined in 35 Ill. Adm. Code
1129 722.151, with the exception that the terms in this Section
1130 refer to hazardous secondary materials, rather than
1131 hazardous waste).
1132

1133 B) Submission of notification of intent to export hazardous secondary
1134 material. Whether delivered by mail or hand delivery, the
1135 following words must prominently appear on the front of the
1136 envelope: "Attention: Notification of Intent to Export."
1137

- 1138 i) A notification that is submitted by mail must be sent to the
1139 following mailing addresses:
1140

1141 Office of Enforcement and Compliance Assurance
1142 Office of Federal Activities
1143 International Compliance Assurance Division (Mail
1144 Code 2254A)
1145 Environmental Protection Agency
1146 1200 Pennsylvania Ave., NW.
1147 Washington, DC 20460

1148
1149 Permits Section
1150 Division of Land Pollution Control
1151 Illinois Environmental Protection Agency
1152 P.O. Box 19276

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Springfield, Illinois 62794-9276

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

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

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

- C) Except for a change in the telephone number submitted pursuant to subsection (a)(25)(A)(i) of this Section or a decrease in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv) of this Section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide the Agency and USEPA with a written re-notification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to subsection (a)(25)(A)(ix) of this Section and in the ports of entry to and departure from transit countries pursuant to subsection (a)(25)(A)(v) of this Section) has been obtained and the hazardous secondary material generator receives from USEPA an Acknowledgment of Consent reflecting the receiving country's consent to the changes.
- D) Upon request from the Agency or USEPA, the hazardous secondary material generator must furnish to the Agency and USEPA any additional information that a receiving country requests in order to respond to a notification.
- E) USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it will provide a complete notification to the receiving country and

1196 any transit countries. A notification is complete when USEPA
 1197 determines that the notification satisfies the requirements of
 1198 subsection (a)(25)(A) of this Section. When a claim of
 1199 confidentiality is asserted with respect to any notification
 1200 information required by subsection (a)(25)(A) of this Section,
 1201 USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it
 1202 may find the notification not complete until any such claim is
 1203 resolved in accordance with 40 CFR 260.2.

1204
 1205 F) The export of hazardous secondary material pursuant to this
 1206 subsection (a)(25) is prohibited, unless the receiving country
 1207 consents to the intended export. When the receiving country
 1208 consents in writing to the receipt of the hazardous secondary
 1209 material, USEPA has stated in corresponding 40 CFR
 1210 261.4(a)(25)(vi) that it will send an Acknowledgment of Consent
 1211 to the hazardous secondary material generator. When the receiving
 1212 country objects to receipt of the hazardous secondary material or
 1213 withdraws a prior consent, USEPA has stated that it will notify the
 1214 hazardous secondary material generator in writing. USEPA has
 1215 stated that it will also notify the hazardous secondary material
 1216 generator of any responses from transit countries.

1217
 1218 G) For exports to OECD Member countries, the receiving country
 1219 may respond to the notification using tacit consent. If no objection
 1220 has been lodged by any receiving country or transit countries to a
 1221 notification provided pursuant to subsection (a)(25)(A) of this
 1222 Section within 30 days after the date of issuance of the
 1223 acknowledgement of receipt of notification by the competent
 1224 authority of the receiving country, the trans-boundary movement
 1225 may commence. In such cases, USEPA has stated in
 1226 corresponding 40 CFR 261.4(a)(25)(vii) that it will send an
 1227 Acknowledgment of Consent to inform the hazardous secondary
 1228 material generator that the receiving country and any relevant
 1229 transit countries have not objected to the shipment, and are thus
 1230 presumed to have consented tacitly. Tacit consent expires one
 1231 calendar year after the close of the 30-day period; re-notification
 1232 and renewal of all consents is required for exports after that date.

1233
 1234 H) A copy of the Acknowledgment of Consent must accompany the
 1235 shipment. The shipment must conform to the terms of the
 1236 Acknowledgment of Consent.
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- I) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another Acknowledgment of Consent.

 - J) The hazardous secondary material generator must keep a copy of each notification of intent to export and each Acknowledgment of Consent for a period of three years following receipt of the Acknowledgment of Consent.

 - K) Annual reporting of hazardous secondary material exports. A hazardous secondary material generator must file with the Agency and USEPA, no later than March 1 of each year, a report that summarizes the types, quantities, frequency, and ultimate destinations of all hazardous secondary materials exported during the previous calendar year. Annual reports must be sent to the addresses listed in subsection (a)(25)(B) of this Section (for mail or hand delivery, as appropriate) for submission notification of intent to export hazardous secondary material. The annual reports must include the following information:
 - i) The name, mailing and site addresses, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility that received exported hazardous secondary material from the generator;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; the USDOT hazard class for the material, as determined pursuant to 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (where applicable) for each

1281 transporter used; the total amount of hazardous secondary
1282 material shipped; and the number of shipments pursuant to
1283 each notification;

- 1284
1285 v) A certification signed by the hazardous secondary material
1286 generator that states as follows:

1287
1288 "I certify under penalty of law that I have personally
1289 examined and am familiar with the information
1290 submitted in this and all attached documents, and
1291 that, based on my inquiry of those individuals
1292 immediately responsible for obtaining the
1293 information, I believe that the submitted
1294 information is true, accurate, and complete. I am
1295 aware that there are significant penalties for
1296 submitting false information, including the
1297 possibility of fine and imprisonment."
1298

- 1299 L) Any person that claims an exclusion under this subsection (a)(25)
1300 must provide notification as required by 35 Ill. Adm. Code
1301 720.142.
1302

1303 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not
1304 solid wastes from the point of generation, provided that all of the
1305 following conditions are fulfilled:
1306

1307 A) The solvent-contaminated wipes, when accumulated, stored, and
1308 transported, are contained in non-leaking, closed containers that
1309 are labeled "Excluded Solvent-Contaminated Wipes". The
1310 containers must be able to contain free liquids, should free liquids
1311 occur. During accumulation, a container is considered closed
1312 when there is complete contact between the fitted lid and the rim,
1313 except when it is necessary to add or remove solvent-contaminated
1314 wipes. When the container is full, when the solvent-contaminated
1315 wipes are no longer being accumulated, or when the container is
1316 being transported, the container must be sealed with all lids
1317 properly and securely affixed to the container and all openings
1318 tightly bound or closed sufficiently to prevent leaks and emissions;
1319

1320 B) The solvent-contaminated wipes may be accumulated by the
1321 generator for up to 180 days from the start date of accumulation for
1322 each container prior to being sent for cleaning;
1323

- 1324 C) At the point of being sent for cleaning on-site or at the point of
1325 being transported off-site for cleaning, the solvent-contaminated
1326 wipes must contain no free liquids, as defined in 35 Ill. Adm. Code
1327 720.110;
1328
 - 1329 D) Free liquids removed from the solvent-contaminated wipes or from
1330 the container holding the wipes must be managed according to the
1331 applicable regulations found in this Part and 35 Ill. Adm. Code
1332 720, 722 through 728, and 733;
1333
 - 1334 E) Generators must maintain at their site the following
1335 documentation:
1336
 - 1337 i) The name and address of the laundry or dry cleaner that is
1338 receiving the solvent-contaminated wipes;
 - 1339
 - 1340 ii) The documentation that the 180-day accumulation time
1341 limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met;
1342 and
 - 1343
 - 1344 iii) A description of the process the generator is using to ensure
1345 that the solvent-contaminated wipes contain no free liquids
1346 at the point of being laundered or dry cleaned on-site or at
1347 the point of being transported off-site for laundering or dry
1348 cleaning; and
1349
 - 1350 F) The solvent-contaminated wipes are sent to a laundry or dry
1351 cleaner whose discharge, if any, is regulated under sections 301
1352 and 402 or section 307 of the federal Clean Water Act (33 USC
1353 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-
1354 state requirements approved by USEPA pursuant to 33 USC 1311
1355 through 1346 and 1370.
1356
- 1357 b) Solid wastes that are not hazardous wastes. The following solid wastes are not
1358 hazardous wastes:
1359
- 1360 1) Household waste, including household waste that has been collected,
1361 transported, stored, treated, disposed of, recovered (e.g., refuse-derived
1362 fuel), or reused. "Household waste" means any waste material (including
1363 garbage, trash, and sanitary wastes in septic tanks) derived from
1364 households (including single and multiple residences, hotels, and motels,
1365 bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds,
1366 and day-use recreation areas). A resource recovery facility managing

1367 municipal solid waste must not be deemed to be treating, storing,
 1368 disposing of, or otherwise managing hazardous wastes for the purposes of
 1369 regulation under this Part, if the following describe the facility:
 1370

- 1371 A) The facility receives and burns only the following waste:
 - 1372
 - 1373 i) Household waste (from single and multiple dwellings,
 1374 hotels, motels, and other residential sources); or
 - 1375
 - 1376 ii) Solid waste from commercial or industrial sources that does
 1377 not contain hazardous waste; and
 - 1378
- 1379 B) The facility does not accept hazardous waste and the owner or
 1380 operator of such facility has established contractual requirements
 1381 or other appropriate notification or inspection procedures to assure
 1382 that hazardous wastes are not received at or burned in such facility.
 1383

1384 BOARD NOTE: The U.S. Supreme Court determined, in *City of*
 1385 *Chicago v. Environmental Defense Fund, Inc.*, 511 U.S. 328, 114
 1386 S. Ct. 1588, 128 L. Ed. 2d 302 (1994), that this exclusion and
 1387 RCRA section 3001(i) (42 USC 6921(i)) do not exclude the ash
 1388 from facilities covered by this subsection (b)(1) from regulation as
 1389 a hazardous waste. At 59 Fed. Reg. 29372 (June 7, 1994), USEPA
 1390 granted facilities managing ash from such facilities that is
 1391 determined a hazardous waste under Subpart C of this Part until
 1392 December 7, 1994 to file a Part A permit application pursuant to
 1393 35 Ill. Adm. Code 703.181. At 60 Fed. Reg. 6666 (Feb. 3, 1995),
 1394 USEPA stated that it interpreted that the point at which ash
 1395 becomes subject to RCRA Subtitle C regulation is when that
 1396 material leaves the combustion building (including connected air
 1397 pollution control equipment).
 1398

- 1399 2) Solid wastes generated by any of the following that are returned to the soil
 1400 as fertilizers:
 - 1401
 - 1402 A) The growing and harvesting of agricultural crops, or
 - 1403
 - 1404 B) The raising of animals, including animal manures.
 - 1405
- 1406 3) Mining overburden returned to the mine site.
- 1407
- 1408 4) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control
 1409 waste generated primarily from the combustion of coal or other fossil

- 1410 fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that
 1411 burn or process hazardous waste.
 1412
- 1413 5) Drilling fluids, produced waters, and other wastes associated with the
 1414 exploration, development, or production of crude oil, natural gas, or
 1415 geothermal energy.
 1416
- 1417 6) Chromium wastes.
 1418
- 1419 A) Wastes that fail the test for the toxicity characteristic (Section
 1420 721.124 and Appendix B to this Part) because chromium is present
 1421 or which are listed in Subpart D of this Part due to the presence of
 1422 chromium, that do not fail the test for the toxicity characteristic for
 1423 any other constituent or which are not listed due to the presence of
 1424 any other constituent, and that do not fail the test for any other
 1425 characteristic, if the waste generator shows the following:
 1426
- 1427 i) The chromium in the waste is exclusively (or nearly
 1428 exclusively) trivalent chromium;
 1429
- 1430 ii) The waste is generated from an industrial process that uses
 1431 trivalent chromium exclusively (or nearly exclusively) and
 1432 the process does not generate hexavalent chromium; and
 1433
- 1434 iii) The waste is typically and frequently managed in non-
 1435 oxidizing environments.
 1436
- 1437 B) The following are specific wastes that meet the standard in
 1438 subsection (b)(6)(A) of this Section (so long as they do not fail the
 1439 test for the toxicity characteristic for any other constituent and do
 1440 not exhibit any other characteristic):
 1441
- 1442 i) Chrome (blue) trimmings generated by the following
 1443 subcategories of the leather tanning and finishing industry:
 1444 hair pulp/chrome tan/retan/wet finish, hair save/chrome
 1445 tan/retan/wet finish, retan/wet finish, no beamhouse,
 1446 through-the-blue, and shearling;
 1447
- 1448 ii) Chrome (blue) shavings generated by the following
 1449 subcategories of the leather tanning and finishing industry:
 1450 hair pulp/chrome tan/retan/wet finish, hair save/chrome
 1451 tan/retan/wet finish, retan/wet finish, no beamhouse,
 1452 through-the-blue, and shearling;

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- iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
 - iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
 - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
 - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting

(or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

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

- i) Slag from primary copper processing;
- ii) Slag from primary lead processing;
- iii) Red and brown muds from bauxite refining;
- iv) Phosphogypsum from phosphoric acid production;
- v) Slag from elemental phosphorus production;
- vi) Gasifier ash from coal gasification;
- vii) Process wastewater from coal gasification;
- viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- ix) Slag tailings from primary copper processing;
- x) Fluorogypsum from hydrofluoric acid production;
- xi) Process wastewater from hydrofluoric acid production;
- xii) Air pollution control dust or sludge from iron blast furnaces;
- xiii) Iron blast furnace slag;
- xiv) Treated residue from roasting and leaching of chrome ore;
- xv) Process wastewater from primary magnesium processing by the anhydrous process;

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- xvi) Process wastewater from phosphoric acid production;
 - xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.
- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (hazardous waste codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains

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structural parity with USEPA regulations.

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

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

- A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
- B) Hot-draining and crushing;
- C) Dismantling and hot-draining; or
- D) Any other equivalent hot-draining method that will remove used oil.

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

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

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

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

K181

August 23, 2005

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

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

- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved". This statement maintains structural parity with USEPA regulations.
- 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:

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

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

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

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

- E) Generators must maintain at their site the following documentation:
 - i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

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

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

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

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

- 1746 of testing to determine its characteristics or composition is not subject to
1747 any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722
1748 through 728. The sample qualifies when it fulfills one of the following
1749 conditions:
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- 1751 A) The sample is being transported to a laboratory for the purpose of
1752 testing;
 - 1753
 - 1754 B) The sample is being transported back to the sample collector after
1755 testing;
 - 1756
 - 1757 C) The sample is being stored by the sample collector before transport
1758 to a laboratory for testing;
 - 1759
 - 1760 D) The sample is being stored in a laboratory before testing;
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 - 1762 E) The sample is being stored in a laboratory for testing but before it
1763 is returned to the sample collector; or
 - 1764
 - 1765 F) The sample is being stored temporarily in the laboratory after
1766 testing for a specific purpose (for example, until conclusion of a
1767 court case or enforcement action where further testing of the
1768 sample may be necessary).
 - 1769
- 1770 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B)
1771 of this Section, a sample collector shipping samples to a laboratory and a
1772 laboratory returning samples to a sample collector must do the following:
1773
- 1774 A) Comply with USDOT, U.S. Postal Service (USPS), or any other
1775 applicable shipping requirements; or
 - 1776
 - 1777 B) Comply with the following requirements if the sample collector
1778 determines that USDOT, USPS, or other shipping requirements do
1779 not apply to the shipment of the sample:
1780
 - 1781 i) Assure that the following information accompanies the
1782 sample: The sample collector's name, mailing address, and
1783 telephone number; the laboratory's name, mailing address,
1784 and telephone number; the quantity of the sample; the date
1785 of the shipment; and a description of the sample; and
 - 1786
 - 1787 ii) Package the sample so that it does not leak, spill, or
1788 vaporize from its packaging.

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

- e) Treatability study samples.
 - 1) Except as is provided in subsection (e)(2) of this Section, a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:
 - A) The sample is being collected and prepared for transportation by the generator or sample collector;
 - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or
 - C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

 - 2) The exemption in subsection (e)(1) of this Section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
 - A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
 - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;

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- C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) of this Section are met.
 - i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or
 - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;
 - D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f) of this Section, or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) of this Section in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an

1875 additional two years for treatability studies involving bioremediation. The
 1876 Agency may grant requests, on a case-by-case basis, for quantity limits in
 1877 excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4) of
 1878 this Section, for up to an additional 5,000 kg of media contaminated with
 1879 non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500
 1880 kg of media contaminated with acute hazardous waste, and 1 kg of acute
 1881 hazardous waste under the circumstances set forth in either subsection
 1882 (e)(3)(A) or (e)(3)(B) of this Section, subject to the limitations of
 1883 subsection (e)(3)(C) of this Section:
 1884

1885 A) In response to requests for authorization to ship, store, and conduct
 1886 further treatability studies on additional quantities in advance of
 1887 commencing treatability studies. Factors to be considered in
 1888 reviewing such requests include the nature of the technology, the
 1889 type of process (e.g., batch versus continuous), the size of the unit
 1890 undergoing testing (particularly in relation to scale-up
 1891 considerations), the time or quantity of material required to reach
 1892 steady-state operating conditions, or test design considerations,
 1893 such as mass balance calculations.
 1894

1895 B) In response to requests for authorization to ship, store, and conduct
 1896 treatability studies on additional quantities after initiation or
 1897 completion of initial treatability studies when the following occurs:
 1898 There has been an equipment or mechanical failure during the
 1899 conduct of the treatability study, there is need to verify the results
 1900 of a previously-conducted treatability study, there is a need to
 1901 study and analyze alternative techniques within a previously-
 1902 evaluated treatment process, or there is a need to do further
 1903 evaluation of an ongoing treatability study to determine final
 1904 specifications for treatment.
 1905

1906 C) The additional quantities allowed and timeframes allowed in
 1907 subsections (e)(3)(A) and (e)(3)(B) of this Section are subject to all
 1908 the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F)
 1909 of this Section. The generator or sample collector must apply to
 1910 the Agency and provide in writing the following information:
 1911

1912 i) The reason why the generator or sample collector requires
 1913 additional time or quantity of sample for the treatability
 1914 study evaluation and the additional time or quantity needed;
 1915

1916 ii) Documentation accounting for all samples of hazardous
 1917 waste from the waste stream that have been sent for or

1918 undergone treatability studies, including the date each
 1919 previous sample from the waste stream was shipped, the
 1920 quantity of each previous shipment, the laboratory or
 1921 testing facility to which it was shipped, what treatability
 1922 study processes were conducted on each sample shipped,
 1923 and the available results of each treatability study;

1924
 1925 iii) A description of the technical modifications or change in
 1926 specifications that will be evaluated and the expected
 1927 results;

1928
 1929 iv) If such further study is being required due to equipment or
 1930 mechanical failure, the applicant must include information
 1931 regarding the reason for the failure or breakdown and also
 1932 include what procedures or equipment improvements have
 1933 been made to protect against further breakdowns; and
 1934

1935 v) Such other information as the Agency determines is
 1936 necessary.
 1937

1938 4) Final Agency determinations pursuant to this subsection (e) may be
 1939 appealed to the Board.
 1940

1941 f) Samples undergoing treatability studies at laboratories or testing facilities.
 1942 Samples undergoing treatability studies and the laboratory or testing facility
 1943 conducting such treatability studies (to the extent such facilities are not otherwise
 1944 subject to RCRA requirements) are not subject to any requirement of this Part, or
 1945 of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification
 1946 requirements of Section 3010 of the Resource Conservation and Recovery Act (42
 1947 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) of
 1948 this Section are met. A mobile treatment unit may qualify as a testing facility
 1949 subject to subsections (f)(1) through (f)(11) of this Section. Where a group of
 1950 mobile treatment units are located at the same site, the limitations specified in
 1951 subsections (f)(1) through (f)(11) of this Section apply to the entire group of
 1952 mobile treatment units collectively as if the group were one mobile treatment unit.
 1953

1954 1) No less than 45 days before conducting treatability studies, the facility
 1955 notifies the Agency in writing that it intends to conduct treatability studies
 1956 under this subsection (f).
 1957

1958 2) The laboratory or testing facility conducting the treatability study has a
 1959 USEPA identification number.
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- 3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
 - 4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.
 - 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
 - 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
 - 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
 - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of "as received" waste in storage each day;

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- E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
- A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.
- 11) The facility notifies the Agency by letter when the facility is no longer

2047 planning to conduct any treatability studies at the site.

2048
2049 g) Dredged material that is not a hazardous waste. Dredged material that is subject
2050 to the requirements of a permit that has been issued under section 404 of the
2051 Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste.
2052 For the purposes of this subsection (g), the following definitions apply:

2053
2054 "Dredged material" has the meaning ascribed it in 40 CFR 232.2
2055 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

2056
2057 "Permit" means any of the following:

2058
2059 A permit issued by the U.S. Army Corps of Engineers (Army
2060 Corps) under section 404 of the Federal Water Pollution Control
2061 Act (33 USC 1344);

2062
2063 A permit issued by the Army Corps under section 103 of the
2064 Marine Protection, Research, and Sanctuaries Act of 1972 (33
2065 USC 1413); or

2066
2067 In the case of Army Corps civil works projects, the administrative
2068 equivalent of the permits referred to in the preceding two
2069 paragraphs of this definition, as provided for in Army Corps
2070 regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

2071
2072 h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide
2073 streams that are captured and transported for purposes of injection into an
2074 underground injection well subject to the requirements for Class VI carbon
2075 sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704
2076 and 730, are not a hazardous waste, provided the following conditions are met:

2077
2078 1) Transportation of the carbon dioxide stream must be in compliance with
2079 U.S. Department of Transportation requirements, including the pipeline
2080 safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by
2081 reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190
2082 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of
2083 the U.S. Department of Transportation, and pipeline safety regulations
2084 adopted and administered by a state authority pursuant to a certification
2085 under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code
2086 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill.
2087 Adm. Code 720.111, as applicable.
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BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications.

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

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

B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

2132 "I certify under penalty of law that the carbon dioxide
 2133 stream that I am claiming to be excluded under 35 Ill.
 2134 Adm. Code 721.104(h) has not been mixed with, or
 2135 otherwise co-injected with, hazardous waste at the UIC
 2136 Class VI permitted facility, and that injection of the carbon
 2137 dioxide stream is in compliance with the applicable
 2138 requirements for UIC Class VI wells, including the
 2139 applicable requirements in 35 Ill. Adm. Code 704 and 730."
 2140

- 2141 C) The signed certification statement must be kept on-site for no less
 2142 than three years, and must be made available within 72 hours after
 2143 a written request from the Agency or USEPA, or their designee.
 2144 The signed certification statement must be renewed every year that
 2145 the exclusion is claimed, by having an authorized representative
 2146 (as defined in 35 Ill. Adm. Code 720.110) annually prepare and
 2147 sign a new copy of the certification statement within one year after
 2148 the date of the previous statement. The signed certification
 2149 statement must also be readily accessible on the facility's publicly-
 2150 available website (if such website exists) as a public notification
 2151 with the title of "Carbon Dioxide Stream Certification" at the time
 2152 the exclusion is claimed.
 2153

2154 (Source: Amended at 38 Ill. Reg. _____, effective _____)
 2155

2156 **Section 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity**
 2157 **Generators**
 2158

- 2159 a) A generator is a conditionally exempt small quantity generator (CESQG) in a
 2160 calendar month if it generates no more than 100 kilograms of hazardous waste in
 2161 that month.
 2162
 2163 b) Except for those wastes identified in subsections (e), (f), (g), and (j) of this
 2164 Section, a CESQG's hazardous wastes are not subject to regulation under 35 Ill.
 2165 Adm. Code 702, 703, and 722 through 728, and the notification requirements of
 2166 section 3010 of Resource Conservation and Recovery Act (42 USC 6930),
 2167 provided the generator complies with subsections (f), (g), and (j) of this Section.
 2168
 2169 c) When making the quantity determinations of this Part and 35 Ill. Adm. Code 722,
 2170 the generator must include all hazardous waste that it generates, except the
 2171 following hazardous waste:
 2172
 2173 1) Hazardous waste that is exempt from regulation under Section 721.104(c)
 2174 through (f), 721.106(a)(3), 721.107(a)(1), or 721.108;

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- 2) Hazardous waste that is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities, as defined in 35 Ill. Adm. Code 720.110;
 - 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
 - 4) Hazardous waste that is used oil managed pursuant to Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
 - 5) Hazardous waste that is spent lead-acid batteries managed pursuant to Subpart G of 35 Ill. Adm. Code 726;
 - 6) Hazardous waste that is universal waste managed pursuant to Section 721.109 and 35 Ill. Adm. Code 733; and
 - 7) Hazardous waste that is an unused commercial chemical product (that is listed in Subpart D of 35 Ill. Adm. Code 721 or which exhibits one or more characteristics in Subpart C of 35 Ill. Adm. Code 721) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to Section 722.313. For purposes of this subsection (c)(7), the term "eligible academic entity" has the meaning given that term in 35 Ill. Adm. Code 722.300.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act (42 USC 6930).

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- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e); or
- 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e).

BOARD NOTE: "Full regulation" means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.

f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in ~~subsections~~ subsections (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:

- 1) 35 Ill. Adm. Code 722.111.
- 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
- 3) A CESQG may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;

2261 D) The facility is permitted, licensed, or registered by a state to
 2262 manage municipal solid waste and, if managed in a municipal solid
 2263 waste landfill facility, the landfill is subject to 35 Ill. Adm. Code
 2264 810 through 814 or federal 40 CFR 258;

2265
 2266 E) The facility is permitted, licensed, or registered by a state to
 2267 manage non-municipal non-hazardous waste and, if managed in a
 2268 non-municipal non-hazardous waste disposal unit, the unit is
 2269 subject to federal 40 CFR 257.5 through 257.30;

2270
 2271 BOARD NOTE: The Illinois non-hazardous waste landfill
 2272 regulations, 35 Ill. Adm. Code 810 through 814, do not allow the
 2273 disposal of hazardous waste in a landfill regulated under those
 2274 rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of
 2275 this Section impose a federal requirement on the hazardous waste
 2276 generator. The Board specifically does not intend that these
 2277 subsections authorize any disposal of conditionally-exempt small
 2278 quantity generator waste in a landfill not specifically permitted to
 2279 accept the particular hazardous waste.

2280
 2281 F) The facility is one that fulfills one of the following conditions:
 2282
 2283 i) It beneficially uses or reuses or legitimately recycles or
 2284 reclaims its waste; or

2285
 2286 ii) It treats its waste prior to beneficial use or reuse or
 2287 legitimate recycling or reclamation; or

2288
 2289 G) For universal waste managed under 35 Ill. Adm. Code 733 or
 2290 federal 40 CFR 273, the facility is a universal waste handler or
 2291 destination facility subject to 35 Ill. Adm. Code 733 or federal 40
 2292 CFR 273.

2293
 2294 g) In order for hazardous waste generated by a CESQG in quantities of 100
 2295 kilograms or less kilograms of hazardous waste during a calendar month to be
 2296 excluded from full regulation under this Section, the generator must comply with
 2297 the following requirements:

2298
 2299 1) The hazardous waste determination requirements of 35 Ill. Adm. Code
 2300 722.111;

2301
 2302 2) The CESQG may accumulate hazardous waste on-site. If it accumulates
 2303 at any time 1,000 kilograms or greater of the generator's hazardous waste,

2304 all of those accumulated wastes are subject to regulation pursuant to the
 2305 special provisions of 35 Ill. Adm. Code 722 applicable to generators of
 2306 greater than 100 kg and less than 1,000 kg of hazardous waste in a
 2307 calendar month, as well as 35 Ill. Adm. Code 702, 703, and 723 through
 2308 728, and the applicable notification requirements of Section 3010 of the
 2309 Resource Conservation and Recovery Act (42 USC 6930). The time
 2310 period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site
 2311 begins for a small quantity generator when the accumulated wastes equal
 2312 or exceed 1,000 kilograms;

- 2313
- 2314 3) A CESQG may either treat or dispose of its hazardous waste in an on-site
 2315 facility or ensure delivery to an off-site treatment, storage, or disposal
 2316 facility, any of which, if located in the United States, meets any of the
 2317 following conditions:
- 2318
- 2319 A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
- 2320
- 2321 B) The facility has interim status under 35 Ill. Adm. Code 702, 703,
 2322 and 725;
- 2323
- 2324 C) The facility is authorized to manage hazardous waste by a state
 2325 with a hazardous waste management program approved by USEPA
 2326 pursuant to 40 CFR 271;
- 2327
- 2328 D) The facility is permitted, licensed, or registered by a state to
 2329 manage municipal solid waste and, if managed in a municipal solid
 2330 waste landfill facility, the landfill is subject to 35 Ill. Adm. Code
 2331 810 through 814 or federal 40 CFR 258;
- 2332
- 2333 E) The facility is permitted, licensed, or registered by a state to
 2334 manage non-municipal non-hazardous waste and, if managed in a
 2335 non-municipal non-hazardous waste disposal unit, the unit is
 2336 subject to federal CESQG waste landfill disposal standards in 40
 2337 CFR 257.5 through 257.30;

2338

2339 BOARD NOTE: The Illinois non-hazardous waste landfill
 2340 regulations, 35 Ill. Adm. Code 810 through 814, do not allow the
 2341 disposal of hazardous waste in a landfill regulated under those
 2342 rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E)
 2343 of this Section impose a federal requirement on the hazardous
 2344 waste generator. The Board specifically does not intend that these
 2345 subsections authorize any disposal of conditionally-exempt small
 2346 quantity generator waste in a landfill not specifically permitted to

2347 accept the particular hazardous waste.
2348

2349 F) The facility is one that fulfills the following conditions:
2350

2351 i) It beneficially uses or re-uses, or legitimately recycles or
2352 reclaims the small quantity generator's waste; or

2353
2354 ii) It treats its waste prior to beneficial use or re-use or
2355 legitimate recycling or reclamation; or
2356

2357 G) For universal waste managed under 35 Ill. Adm. Code 733 or
2358 federal 40 CFR 273, the facility is a universal waste handler or
2359 destination facility subject to 35 Ill. Adm. Code 733 or federal 40
2360 CFR 273.
2361

2362 h) Hazardous waste subject to the reduced requirements of this Section may be
2363 mixed with non-hazardous waste and remain subject to these reduced
2364 requirements even though the resultant mixture exceeds the quantity limitations
2365 identified in this Section, unless the mixture meets any of the characteristics of
2366 hazardous wastes identified in Subpart C of this Part.
2367

2368 i) If a small quantity generator mixes a solid waste with a hazardous waste that
2369 exceeds a quantity exclusion level of this Section, the mixture is subject to full
2370 regulation.
2371

2372 j) If a CESQG's hazardous wastes are mixed with used oil, the mixture is subject to
2373 the used oil standards in 35 Ill. Adm. Code 739. Any material produced from
2374 such a mixture by processing, blending, or other treatment is also so regulated.
2375

2376 (Source: Amended at 38 Ill. Reg. _____, effective _____)

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Pollution Control Board

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POLLUTION CONTROL BOARD

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

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective

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May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.104 Exclusions

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:
 - 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and

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B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.

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

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

- 3) Irrigation return flows.
- 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
- A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

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- B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B) of this Section, so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the

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standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

- v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].
- 10) Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is

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recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.

- 11) Nonwastewater splash condenser dross residue from the treatment of hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, gasification (as defined in 35 Ill. Adm. Code 720.110), or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B) of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D of this Part, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.
 - B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A) of this Section. Recovered oil is oil that has been reclaimed from

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

- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
 - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) Comparable fuels or comparable syngas fuels that meet the requirements of Section 721.138.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D of this Part) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by ~~beneficiation-~~ ~~beneficiation~~ beneficiation, provided that the following is true:
 - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;

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

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material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

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

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

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in non-land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
- F) For purposes of subsection (b)(7) of this Section, mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous

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wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:
 - A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste code D018);
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:

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- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
- B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
 - i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F) of this Section:
 - iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).

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

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industrial processes from which the hazardous secondary materials were generated.

- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i) of this Section, and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.
- F) A container used to store excluded secondary material must fulfill the following conditions:
 - i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) It must prevent run-on into the containment system.

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

- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:
 - i) The name of the transporter and date of the shipment;

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- ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
- iii) The type and quantity of excluded secondary material in each shipment.

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

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

- A) The fertilizers meet the following contaminant limits:

- i) For metal contaminants:

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

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

- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing

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must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B) of this Section. Such records must at a minimum include the following:
 - i) The dates and times product samples were taken, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons taking the samples;
 - iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).

- 22) Used CRTs.
 - A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed

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of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.

- B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
 - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
 - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).
- 23) Hazardous secondary materials managed in land-based units. Hazardous secondary material generated and reclaimed within the United States or its territories and managed in land-based units, as defined in 35 Ill. Adm. Code 720.110, is not a solid waste if the following conditions are fulfilled with regard to the material:
- A) The material is contained;
 - B) The material is a hazardous secondary material generated and reclaimed under the control of the generator, as defined in 35 Ill. Adm. Code 720.110;
 - C) The material is not speculatively accumulated, as defined in Section 721.101(c)(8);
 - D) The material is not otherwise subject to material-specific management conditions under subsection (a) of this Section when reclaimed, it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102), and it does not meet either of the listing descriptions for K171 or K172 waste in Section 721.132;
 - E) The reclamation of the material is legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143; and

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- F) In addition, a person claiming the exclusion under this subsection (a)(23) must provide notification of regulated waste activity, as required by 35 Ill. Adm. Code 720.142. (For hazardous secondary material managed in a non-land-based unit, see Section 721.102(a)(2)(B)).

- 24) Hazardous secondary materials transferred for off-site recycling. Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G) of this Section:
 - A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.110).

 - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.

 - C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed; the material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102); and the material must not fulfill either of the listing descriptions for K171 or K172 waste in Section 721.132.

 - D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.

 - E) The hazardous secondary material generator must satisfy each of the following conditions:
 - i) The hazardous secondary material must be contained.

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

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series of affirmative determinations set forth in subsection (a)(24)(H) of this Section for each reclamation facility and intermediate facility that will manage its waste.

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(B) makes it clear that USEPA intends that the generator undertake this determination for each reclaimer that will manage its hazardous secondary material. The Board added a definition of "non-Subtitle C management" and substituted this term for the language "management of the hazardous secondary materials is not addressed under a RCRA Part B permit or interim status standards." Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning. The Board moved the material from 40 CFR 261.4(a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to appear as 35 Ill. Adm. Code 721.104(a)(24)(H)(i) through (a)(24)(H)(v). This movement allowed compliance with codification requirements relating to the maximum permissible indent level.

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

"I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to [insert the name of each reclamation facility and any intermediate facility that will manage the materials], reasonable efforts were made in accordance with 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) (and corresponding 40 CFR 261.4(a)(24)(v)(B)) to ensure that the hazardous secondary materials would be recycled legitimately and would be

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otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information.^{22"}

BOARD NOTE: Corresponding 40 CFR 261.4(a)(24)(v)(C) combines the requirements for records retention and availability for inspection with the requirement for certification. The Board combined the certification requirements from 40 CFR 261.4(a)(24)(v)(C), (a)(24)(v)(C)(1), and (a)(24)(v)(C)(2) in this single subsection (a)(24)(E)(iii). This combination allowed compliance with codification requirements relating to the maximum permissible indent level. The Board moved the records retention and availability for inspection requirements to subsection (a)(24)(E)(iv) of this Section. This forced renumbering 40 CFR 261.4(a)(24)(v)(D) and (a)(24)(v)(E) as subsections (a)(24)(E)(v) and (a)(24)(E)(vi) of this Section. Although the Board shifted the language for enhanced readability, the Board intends no shift in meaning.

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

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

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

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

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

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

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

- i) The owner or operator of a reclamation or intermediate facility must maintain at its facility for a minimum of three years records of every shipment of hazardous secondary material that the facility received and, if applicable, for every shipment of hazardous secondary material that the facility received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, contain the following information: the name of the transporter and date of the shipment; the name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility from which the facility received the hazardous secondary materials; the type and quantity of hazardous secondary material in the shipment; and, for hazardous secondary materials that the facility subsequently transferred off-site for further reclamation after receiving it, the name and address of the (subsequent) reclaimer and any intermediate facility to which the facility sent the hazardous secondary material.

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

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

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

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- vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H of this Part.
- G) Any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24) must provide notification as required by 35 Ill. Adm. Code 720.142.
- H) For the purposes of subsection (a)(24)(E)(ii) of this Section, the hazardous secondary material generator must affirmatively determine that each of the following conditions is true for each reclamation facility and any intermediate facility that will manage the generator's hazardous secondary material:
 - i) Available information indicates that the reclamation process is legitimate recycling, as determined pursuant to 35 Ill. Adm. Code 720.143. In making this determination, the hazardous secondary material generator may rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as on information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process. (By making this determination, the hazardous secondary material generator has also satisfied the requirement in 35 Ill. Adm. Code 720.143(a) that the generator demonstrate that the recycling is legitimate).
 - ii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has submitted the notification required by 35 Ill. Adm. Code 720.142, and these facilities have submitted the required proofs of financial assurance as required by the applicable of Section 721.243(a)(1), (b)(1), (c)(1), (d)(1), (e)(3), and (g) and notification of financial assurance pursuant to 35 Ill. Adm. Code 720.142(a)(5). In making this dual determination, the hazardous secondary material generator may rely on the available information documenting the

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reclamation facility²'s and any intermediate facility²'s compliance with the notification requirements pursuant to 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify the Agency whether the reclaimer or intermediate facility has financial assurance.

- iii) Publicly available information indicates that each reclamation facility and any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, and the facility has not been classified as a significant non-complier (SNC) with RCRA Subtitle C requirements. In making this determination, the hazardous secondary material generator may rely on the publicly available information from USEPA, the Agency, or the Office of the Attorney General. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility within the previous three years for violations of the RCRA hazardous waste regulations, or if the facility has been classified as a SNC with RCRA Subtitle C requirements, the hazardous secondary material generator must have credible evidence that the facility will manage the hazardous secondary materials properly. In making this determination, the hazardous secondary material generator can obtain additional information from USEPA, the Agency, the Office of the Attorney General, or the facility itself which indicates that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the generator²'s hazardous secondary materials.

BOARD NOTE: USEPA or a state may make a formalized determination that a facility is a SNC (pronounced

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"snick") pursuant to USEPA's "Hazardous Waste Civil Enforcement Response Policy" (most recent version: December 2003, available from USEPA, Envirofacts Data Warehouse (www.epa.gov/compliance/resources/policies/civil/rcra/finalelrp1203.pdf)). USEPA operates the online RCRAInfo database (www.epa.gov/enviro/html/rcris/) from which interested persons can learn whether a facility has significant federal enforcement action against it, or if it is a SNC.

- iv) Available information indicates that the reclamation facility and any intermediate facility used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material. In making this determination, the generator may rely on a description made by the reclamation facility or an independent third party of the equipment and trained personnel that the facility will use to manage and recycle the generator's hazardous secondary material.
- v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility has the permits required (if any) to manage the residuals. If the reclamation facility does not have required permits, the facility has a contract with an appropriately permitted facility to dispose of the residuals. If the reclamation facility does not have required permits or a contract with a permitted facility, the hazardous secondary material generator has credible evidence that the residuals will be managed in a manner that is protective of human health and the environment. In making these determinations, the hazardous secondary material generator may rely on publicly available information from USEPA or the Agency, or on information provided by the facility itself.

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

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

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hazardous secondary material, as identified in 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111;

- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported, and the period of time over which the hazardous secondary material is to be exported;
- iv) The estimated total quantity of hazardous secondary material;
- v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), and the types of container (drums, boxes, tanks, etc.));
- vii) A description of the manner in which the hazardous secondary material will be reclaimed in the receiving country;
- viii) The name and address of each reclaimer, any intermediate facility, and any alternative reclaimer and intermediate facilities; and
- ix) The name of any transit countries through which the hazardous secondary material will be sent, together with a description of the approximate length of time the material will remain in each transit country and the nature of the handling of the material while in the country (for purposes of this Section, the meanings of the terms "Acknowledgement of Consent," "receiving country," and "transit country" are as defined in 35 Ill. Adm. Code 722.151, with the exception that the terms in this Section

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refer to hazardous secondary materials, rather than hazardous waste).

- B) Submission of notification of intent to export hazardous secondary material. Whether delivered by mail or hand delivery, the following words must prominently appear on the front of the envelope: "Attention: Notification of Intent to Export."

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

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

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

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

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

Permits Section
Division of Land Pollution Control

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Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

- C) Except for a change in the telephone number submitted pursuant to subsection (a)(25)(A)(i) of this Section or a decrease in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv) of this Section, when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide the Agency and USEPA with a written re-notification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to subsection (a)(25)(A)(ix) of this Section and in the ports of entry to and departure from transit countries pursuant to subsection (a)(25)(A)(v) of this Section) has been obtained and the hazardous secondary material generator receives from USEPA an Acknowledgment of Consent reflecting the receiving country's consent to the changes.
- D) Upon request from the Agency or USEPA, the hazardous secondary material generator must furnish to the Agency and USEPA any additional information that a receiving country requests in order to respond to a notification.
- E) USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when USEPA determines that the notification satisfies the requirements of subsection (a)(25)(A) of this Section. When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A) of this Section, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(v) that it may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

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- F) The export of hazardous secondary material pursuant to this subsection (a)(25) is prohibited, unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the hazardous secondary material, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vi) that it will send an Acknowledgment of Consent to the hazardous secondary material generator. When the receiving country objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA has stated that it will notify the hazardous secondary material generator in writing. USEPA has stated that it will also notify the hazardous secondary material generator of any responses from transit countries.
- G) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any receiving country or transit countries to a notification provided pursuant to subsection (a)(25)(A) of this Section within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the receiving country, the trans-boundary movement may commence. In such cases, USEPA has stated in corresponding 40 CFR 261.4(a)(25)(vii) that it will send an Acknowledgment of Consent to inform the hazardous secondary material generator that the receiving country and any relevant transit countries have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; re-notification and renewal of all consents is required for exports after that date.
- H) A copy of the Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the Acknowledgment of Consent.
- I) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new

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reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another Acknowledgment of Consent.

- J) The hazardous secondary material generator must keep a copy of each notification of intent to export and each Acknowledgment of Consent for a period of three years following receipt of the Acknowledgment of Consent.
- K) Annual reporting of hazardous secondary material exports. A hazardous secondary material generator must file with the Agency and USEPA, no later than March 1 of each year, a report that summarizes the types, quantities, frequency, and ultimate destinations of all hazardous secondary materials exported during the previous calendar year. Annual reports must be sent to the addresses listed in subsection (a)(25)(B) of this Section (for mail or hand delivery, as appropriate) for submission notification of intent to export hazardous secondary material. The annual reports must include the following information:
 - i) The name, mailing and site addresses, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility that received exported hazardous secondary material from the generator;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply were the hazardous secondary material to be managed as hazardous waste; the USDOT hazard class for the material, as determined pursuant to 49 CFR 171 through 173, each incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (where applicable) for each

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transporter used; the total amount of hazardous secondary material shipped; and the number of shipments pursuant to each notification;

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

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

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

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

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

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- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
- C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
 - i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
- F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.

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- b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:
- 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:
- A) The facility receives and burns only the following waste:
- i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or
- ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
- B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

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

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becomes subject to RCRA Subtitle C regulation is when that material leaves the combustion building (including connected air pollution control equipment).

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

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

- B) The following are specific wastes that meet the standard in subsection (b)(6)(A) of this Section (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):
 - i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
 - iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

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

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- iii) Red and brown muds from bauxite refining;
- iv) Phosphogypsum from phosphoric acid production;
- v) Slag from elemental phosphorus production;
- vi) Gasifier ash from coal gasification;
- vii) Process wastewater from coal gasification;
- viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- ix) Slag tailings from primary copper processing;
- x) Fluorogypsum from hydrofluoric acid production;
- xi) Process wastewater from hydrofluoric acid production;
- xii) Air pollution control dust or sludge from iron blast furnaces;
- xiii) Iron blast furnace slag;
- xiv) Treated residue from roasting and leaching of chrome ore;
- xv) Process wastewater from primary magnesium processing by the anhydrous process;
- xvi) Process wastewater from phosphoric acid production;
- xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
- xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;

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- xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
 - 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for hazardous waste codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.
 - 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 (hazardous waste codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
 - 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.
 - 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile

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refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this Part, if these oil filters have been gravity hot-drained using one of the following methods:
 - A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;
 - C) Dismantling and hot-draining; or
 - D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
 - A) The following conditions must be fulfilled:
 - i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

| USEPA Hazardous Waste Numbers | Listing Effective Date |
|-------------------------------|------------------------|
| K169, K170, K171, and K172 | February 8, 1999 |

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| K174 and K175 | May 7, 2001 |
| K176, K177, and K178 | May 20, 2002 |
| K181 | August 23, 2005 |

- ii) The solid wastes described in subsection (b)(15)(A)(i) of this Section were disposed of prior to the effective date of the listing (as set forth in that subsection);
 - iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
 - iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).
- B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, or K178, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.
- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved." This statement maintains structural parity with USEPA regulations.

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- 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:
 - A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
 - C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:

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- i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180 day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- E) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or
 - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act²² (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or [Subpart 40 subpart H](#) of 726; 40 CFR

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~~parts~~ 264 or 265 or subpart H of [4940](#) CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.

- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.
- d) Samples.
 - 1) Except as provided in subsection (d)(2) of this Section, a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:
 - A) The sample is being transported to a laboratory for the purpose of testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or

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- F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B) of this Section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
 - A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
 - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) of this Section.
- e) Treatability study samples.
 - 1) Except as is provided in subsection (e)(2) of this Section, a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of the Resource Conservation and Recovery Act. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:

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

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not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;

- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f) of this Section, or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) of this Section in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4) of this Section, for up to an additional 5,000 kg of media contaminated with

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non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B) of this Section, subject to the limitations of subsection (e)(3)(C) of this Section:

- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.
- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) of this Section are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F) of this Section. The generator or sample collector must apply to the Agency and provide in writing the following information:
 - i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous

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

- iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
 - iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
 - v) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) of this Section are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11) of this Section. Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) of this Section apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
- 1) No less than 45 days before conducting treatability studies, the facility

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notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).

- 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
- 3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
- 4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.
- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be

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included for each treatability study conducted:

- A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of "as received" waste in storage each day;
 - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
- A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);

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- D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e) of this Section.
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:

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

"Permit" means any of the following:

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

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

In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two

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paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:

- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190-~~199~~ through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable.

BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway, or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications.
 - A) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection (h), must

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

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

- B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under paragraph (h) of this section subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

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

- C) The signed certification statement must be kept on-site for no less than three years, and must be made available within 72 hours

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- 3) Hazardous waste that is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Section 721.106(c)(2);
 - 4) Hazardous waste that is used oil managed pursuant to Section 721.106(a)(4) and 35 Ill. Adm. Code 739;
 - 5) Hazardous waste that is spent lead-acid batteries managed pursuant to Subpart G of 35 Ill. Adm. Code 726;
 - 6) Hazardous waste that is universal waste managed pursuant to Section 721.109 and 35 Ill. Adm. Code 733; and
 - 7) Hazardous waste that is an unused commercial chemical product (that is listed in Subpart D of 35 Ill. Adm. Code 721 or which exhibits one or more characteristics in Subpart C of 35 Ill. Adm. Code 721) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to Section 722.313. For purposes of this subsection (c)(7), the term "eligible academic entity" has the meaning given that term in 35 Ill. Adm. Code 722.300.
- d) In determining the quantity of hazardous waste it generates, a generator need not include the following:
- 1) Hazardous waste when it is removed from on-site storage;
 - 2) Hazardous waste produced by on-site treatment (including reclamation) of its hazardous waste so long as the hazardous waste that is treated was counted once;
 - 3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.
- e) If a generator generates acute hazardous waste in a calendar month in quantities greater than those set forth in subsections (e)(1) and (e)(2) of this Section, all quantities of that acute hazardous waste are subject to full regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the notification requirements of section 3010 of the Resource Conservation and Recovery Act (42 USC 6930).

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- 1) A total of one kilogram of one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e); or
- 2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any one or more of the acute hazardous wastes listed in Section 721.131 or 721.133(e).

BOARD NOTE: ~~“Full regulation”~~ means those regulations applicable to generators of 1,000 kg or greater of hazardous waste in a calendar month.

- f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in ~~subsections~~ subsections (e)(1) or (e)(2) of this Section to be excluded from full regulation under this Section, the generator must comply with the following requirements:
 - 1) 35 Ill. Adm. Code 722.111.
 - 2) The generator may accumulate acute hazardous waste on-site. If the generator accumulates at any time acute hazardous wastes in quantities greater than set forth in subsection (e)(1) or (e)(2) of this Section, all of those accumulated wastes are subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728, and the applicable notification requirements of section 3010 of the Resource Conservation and Recovery Act. The time period of 35 Ill. Adm. Code 722.134(a), for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit.
 - 3) A CESQG may either treat or dispose of its acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703,

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and 725;

- C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
- D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code 810 through 814 or federal 40 CFR 258;
- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (f)(3)(D) and (f)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills one of the following conditions:
 - i) It beneficially uses or reuses or legitimately recycles or reclaims its waste; or
 - ii) It treats its waste prior to beneficial use or reuse or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.

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- g) In order for hazardous waste generated by a CESQG in quantities of 100 kilograms or less ~~kilograms of~~ kilograms of hazardous waste during a calendar month to be excluded from full regulation under this Section, the generator must comply with the following requirements:
- 1) The hazardous waste determination requirements of 35 Ill. Adm. Code 722.111;
 - 2) The CESQG may accumulate hazardous waste on-site. If it accumulates at any time 1,000 kilograms or greater of the generator's hazardous waste, all of those accumulated wastes are subject to regulation pursuant to the special provisions of 35 Ill. Adm. Code 722 applicable to generators of greater than 100 kg and less than 1,000 kg of hazardous waste in a calendar month, as well as 35 Ill. Adm. Code 702, 703, and 723 through 728, and the applicable notification requirements of Section 3010 of the Resource Conservation and Recovery Act (42 USC 6930). The time period of 35 Ill. Adm. Code 722.134(d) for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes equal or exceed 1,000 kilograms;
 - 3) A CESQG may either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, any of which, if located in the United States, meets any of the following conditions:
 - A) The facility is permitted under 35 Ill. Adm. Code 702 and 703;
 - B) The facility has interim status under 35 Ill. Adm. Code 702, 703, and 725;
 - C) The facility is authorized to manage hazardous waste by a state with a hazardous waste management program approved by USEPA pursuant to 40 CFR 271;
 - D) The facility is permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill facility, the landfill is subject to 35 Ill. Adm. Code

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810 through 814 or federal 40 CFR 258;

- E) The facility is permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, the unit is subject to federal CESQG waste landfill disposal standards in 40 CFR 257.5 through 257.30;

BOARD NOTE: The Illinois non-hazardous waste landfill regulations, 35 Ill. Adm. Code 810 through 814, do not allow the disposal of hazardous waste in a landfill regulated under those rules. The Board intends that subsections (g)(3)(D) and (g)(3)(E) of this Section impose a federal requirement on the hazardous waste generator. The Board specifically does not intend that these subsections authorize any disposal of conditionally-exempt small quantity generator waste in a landfill not specifically permitted to accept the particular hazardous waste.

- F) The facility is one that fulfills the following conditions:
 - i) It beneficially uses or re-uses, or legitimately recycles or reclaims the small quantity generator's waste; or
 - ii) It treats its waste prior to beneficial use or re-use or legitimate recycling or reclamation; or
- G) For universal waste managed under 35 Ill. Adm. Code 733 or federal 40 CFR 273, the facility is a universal waste handler or destination facility subject to 35 Ill. Adm. Code 733 or federal 40 CFR 273.

- h) Hazardous waste subject to the reduced requirements of this Section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this Section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C of this Part.
- i) If a small quantity generator mixes a solid waste with a hazardous waste that

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