

ILLINOIS POLLUTION CONTROL BOARD

July 26, 2018

IN THE MATTER OF:)
RCRA SUBTITLE C UPDATE, USEPA) R19-3
AMENDMENTS (January 1, 2018 through) (Identical-in-Substance Rulemaking -
June 30, 2018)) Land

Proposed Rule. Proposal for Public Comment.

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

The Board today proposes amendments to the Illinois hazardous waste rules that are identical-in-substance to amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018. The Board's includes limited non-substantive revisions and corrections that the Board finds are necessary.

Section 22.4(a) of the Environmental Protection Act (Act) (415 ILCS 5/22.4(a) (2016)) requires the Board to adopt hazardous waste rules that are identical-in-substance to USEPA's RCRA Subtitle C rules. It requires the Board to use the identical-in-substance rulemaking procedure of Section 7.2(b) of the Act (415 ILCS 5/7.2(b) (2016)). Adopting USEPA's revised RCRA Subtitle C rules will require amendments to 35 Ill. Adm. Code 720 through 725.

The Board submits the proposed amendments for publication in the *Illinois Register* and will accept public comments for 45 days after publication. The Board will then adopt the final amendments. The Board requests comment on the proposed amendments.

EXPEDITED CONSIDERATION

The Board expedites consideration of the USEPA amendments and adopt them as rapidly as possible. As is explained in the discussion of the hazardous waste manifest requirements below, the USEPA amendments of January 3, 2018 made the hazardous waste shipping requirements less stringent. Further, as is explained in the discussion of the DSWR below, the USEPA amendments of May 30, 2018 were the result of judicial vacatur that made the federal definition of solid waste less stringent.

Until the Board completes the present amendments, Illinois rules remain more stringent than their USEPA counterparts. The Board wishes to foreshorten this situation.

CONCURRENT HAZARDOUS WASTE AMENDMENTS

On May 24, 2018, the Board proposed extensive amendments to the Illinois hazardous waste, underground injection control, and municipal solid waste rules in RCRA Subtitle D Update, USEPA Amendments (July 1, 2016 through December 31, 2016), R17-14, RCRA Subtitle C Update, USEPA Amendments (July 1, 2016 through December 31, 2016), R17-15, RCRA Subtitle C Update, USEPA Amendments (July 1, 2017 through December 31, 2017), R18-12, UIC Update: Miscellaneous Non-Substantive Revisions and Corrections to 35 Ill. Adm. Code 704, 705, 730, and 738, R18-31 (cons.). Notices of Proposed Amendments appeared in

four issues of the *Illinois Register*, from June 15, 2018 through July 6, 2018. The Board anticipates adopting amendments no sooner than October 9, 2018.

Several provisions in that proceeding are also involved in this rulemaking. Table 1 in the Identical-in-Substance Rulemaking Addendum (Proposed) (IIS-RA(P))¹ for this rulemaking lists the rules that are involved in both rulemakings. Delaying proposing today's amendments until after completing the consolidated R17-14/R17-15/R18-12/R18-31 amendments would delay these amendments until late January 2019. This would not only be later than our statutory due date of January 3, 2019² and also unnecessarily adoption.

For administrative convenience, the Board includes the non-substantive revisions and corrections proposed in consolidated docket R17-14/R17-15/R18-12/R18-31 in the present rulemaking. The Board includes explanatory notes in the entries for these provisions in Table 4 of the IIS-RA(P). The Board does not include substantive revisions from that proceeding.

TIMETABLE TO COMPLETE RULEMAKING

If the Board met no unexpected delay, the following schedule could conceivably allow it to complete these amendments by November 26, 2018:

Board order proposing amendments:	July 26, 2018
Submission for <i>Illinois Register</i> publication:	August 6, 2018
Estimated <i>Illinois Register</i> publication date:	August 17, 2018
Estimated end of 45-day public comment period:	October 1, 2018
Board order adopting amendments:	October 18, 2018
End of 30-day delay for USEPA review:	November 19, 2018
Estimated filing and effective date:	November 26, 2018
Estimated <i>Illinois Register</i> publication date:	December 7, 2018

SUMMARY OF PROPOSED AMENDMENTS

The following discussions summarize the Board's actions today. Two USEPA actions require identical-in-substance rulemaking. Government Printing Office (GPO) corrections to USEPA hazardous waste rules will not require Board action. Additionally, the Board makes necessary corrections in existing rules. More extended discussions of these topics follow the summaries.

Federal Regulations Implemented

USEPA took two actions that affected the federal hazardous waste rules during the first half of 2018. These actions require corresponding amendments to the Illinois hazardous waste

¹ The IIS-RA(P) is available in the docket for this rulemaking in the Clerk's Office On-Line (COOL) system on the Board's webpage (pcb.illinois.gov).

² See 415 ILCS 5/7.2(b) (2016) (one year after USEPA adopting the rule).

rules. The GPO further corrected USEPA hazardous waste rules. Those corrections will not require Board action.

Hazardous Waste Manifest Revisions and e-Manifest System User Fees—January 3, 2018 (83 Fed. Reg. 420)

USEPA revised hazardous waste manifest requirements and established a user fee system for the e-Manifest System in 40 C.F.R. 260 and 262 through 265. The Board incorporates most of these USEPA revisions into corresponding 35 Ill. Adm. Code 720 and 722 through 725.

As explained in the discussion of the hazardous waste manifest requirements below, these amendments made the hazardous waste shipping requirements less stringent than corresponding Illinois requirements.

Corrections to Code of Federal Regulations Rules—February 7, 2018 (83 Fed. Reg. 5340)

The GPO published two corrections to USEPA hazardous waste rules. The corrections reinstate segments of text omitted from the July 1, 2017 edition of the *Code of Federal Regulations*. They do not revise the USEPA rules. These corrections do not require Board action, and this opinion does not further discuss these corrections.

As explained in the discussion of the DSWR below, these amendments made the federal definition of solid waste less stringent than the corresponding Illinois requirements.

DSWR Revisions—May 30, 2018 (83 Fed. Reg. 24664)

USEPA revised the Definition of Solid Waste Rule (DSWR) in response to the vacatur in *American Petroleum Institute v. EPA*, 862 F.3d 50 (D.C. Cir. 2017), reh'g granted, 883 F.3d 918 (D.C. Cir. Mar. 6, 2018). Amendments to 40 C.F.R. 260 and 261 removed 2015 revisions to the DSWR, restoring segments of 2008 revisions. The Board makes corresponding changes in 35 Ill. Adm. Code 720 and 721.

Miscellaneous Corrections

The Board determines that limited corrections to the text of various rules are needed. The corrections include the stylistic changes of the type routinely requested by JCAR and updating references to the *Code of Federal Regulations* to the latest version available that are also included in consolidated docket R17-14/R17-15/R18-12/R18-31, as discussed above. The Board also standardizes references to the uniform hazardous waste manifest form.

No further discussion of these corrections appears in this opinion and order. The corrections are listed in Table 4 of the IIS-RA(P) for this rulemaking. The entries for corrections also included in consolidated docket R17-14/R17-15/R18-12/R18-31 are noted.

PUBLIC COMMENTS

The Board urges careful review of the proposed amendments and invites public comment on them. The Board will receive public comments until 45 days after the proposed amendments

appear in the *Illinois Register*. The Board requests comments on specific amendments in the discussions below.

DISCUSSION

Federal Actions in This Rulemaking

The following discussion considers the two USEPA actions requiring amendments to the Illinois regulations. The Board considers first the hazardous waste manifest revisions and e-Manifest System user fee provisions. The Board then considers the DSWR revisions.

Hazardous Waste Manifest Revisions and e-Manifest System User Fees—January 3, 2018 (83 Fed. Reg. 420)

In response to the Hazardous Waste Electronic Manifest Establishment Act (e-Manifest Act), Pub. L. 112-195, 126 Stat. 1452 (Oct. 5, 2012), USEPA adopted the first e-Manifest rule in 2014.³ 79 Fed. Reg. 7518 (Feb. 7, 2014). USEPA refers to that initial rule as the “One Year Rule” because the e-Manifest Act required its adoption within one year of its enactment. 83 Fed. Reg. at 421. The present amendments complete the e-Manifest Rule by establishing user fee requirements and establishing June 30, 2018 as the implementation date for the e-Manifest System. The present amendments further revise the One Year Rule and make a change in the general manifest requirements.

e-Manifest System User Fees. New subparts FF of 40 C.F.R. 264 and 265 provide how USEPA determines the fees and revises them. *See* 40 C.F.R. §§ 264.1312, 264.1313, 265.1312, and 265.1313, as added at 83 Fed. Reg. at 420. They provide how fees are paid into the system, provide sanctions for delinquent payments, and establish a procedure for dispute resolution. *See* 40 C.F.R. §§ 264.1314 through 264.1316 and 265.1314 through 265.1316, as added at 83 Fed. Reg. at 420. The two subparts are essentially identical. The Board does not view any of the differences as substantive.⁴

The fees apply to all use of the federal hazardous waste manifest, including state-only regulated waste that is exempt from federal manifest requirements but for which the state requires use of the manifest. 40 C.F.R. §§ 260.5(b), 264.1311, and 265.1311, as added at 83 Fed.

³ The Board adopted the e-Manifest Rule in RCRA Subtitle C Update, USEPA Amendments (January 1, 2014 through June 30, 2014), R15-1 (Dec. 18, 2014).

⁴ The Board notes limited differences: “hazardous waste” in 40 C.F.R. § 264.1300(b) vs. “waste” in 40 C.F.R. § 265.1300(b); the relative placement of “Cross Media Electronic Reporting Rule (CROMERR)” and “CROMERR” in 40 C.F.R. § 264.1310 and 265.1310; a colon at the end of 40 C.F.R. § 264.1311(b) but a period in 40 C.F.R. § 265.1311(b); and “two fiscal years” and “odd numbered calendar year” in 40 C.F.R. § 264.1313(a)(2) vs. “next two fiscal years” and “and odd numbered year” in 40 C.F.R. § 265.1313(a)(2); brackets on the equation in 40 C.F.R. § 264.1313(c) that do not appear in 40 C.F.R. § 265.1313(c); and “handling charges” in 40 C.F.R. § 264.1315(b) vs. “processing and handling charges” in 40 C.F.R. § 265.1315(b).

Reg. 420 (Jan. 3, 2018); *see* 42 U.S.C. § 6939g(a)(5)(A) (2016); 83 Fed. Reg. at 425. The rules define a user of the e-Manifest system as any hazardous waste generator; transporter; or treatment, storage, or disposal (T/S/D) facility that enters an e-Manifest into the e-Manifest System or submits a paper manifest for entry into the System. 40 C.F.R. § 260.10 (2017). However, only the receiving T/S/D facility pays the fees. 40 C.F.R. §§ 264.71(j) and 265.71(j) (2017), as amended, and §§ 264.1311 and 265.1311(a), as added at 83 Fed. Reg. at 420. Expenditure of the fees collected is limited by law to costs of developing, operating, maintaining, and upgrading the System. 42 U.S.C. § 6939g(d)(2)(A) (2016); 83 Fed. Reg. at 421.

Revisions to the One Year Rule. The revisions to the One Year Rule allow use of mixed paper and electronic manifests to track shipments of hazardous waste under certain circumstances. The One Year Rule prohibited use of e-Manifests unless all waste handlers named on the manifest participate in use of the e-Manifest System. 40 C.F.R. § 262.24(c) (2017). The amendments added a caveat: the generator can execute a paper copy of the manifest, obtaining the transporter's signature, then the transporter can enter the manifest into the e-Manifest System for all subsequent waste handling. 40 C.F.R. § 262.24(c), as added at 83 Fed. Reg. at 420.

The revisions to the One Year Rule also describe procedures for making data corrections in the e-Manifest System. Any time after final receipt of a shipment of waste by the designated facility (the T/S/D), "any interested person" can submit corrections into the System. 40 C.F.R. § 263.20(a)(9), as added at 83 Fed. Reg. at 420.

Revision to the General Manifest Requirements. The revised general hazardous waste manifest requirements allow changing the transporters or designated facility listed on the manifest while a shipment of hazardous waste is en route. The rule applies only where the transporter cannot deliver the shipment due to an emergency condition. What is required of the transporter depends on whether the failed delivery is to a designated facility or another transporter. Where to another transporter, the requirement depends on whether the transporter has agency authority from the generator.

Where the transporter cannot deliver the waste shipment to the designated facility or alternate designated facility, the transporter must contact the generator for further instructions. 40 C.F.R. § 263.21(b)(1) (2017), as added at 83 Fed. Reg. at 420.

Where the transporter cannot deliver the waste shipment to a transporter listed on the manifest, the transporter may add a new transporter as authorized by the generator. 40 C.F.R. § 263.21(b)(2) (2017), as added at 83 Fed. Reg. at 420. If the transporter has contractual agency authority to act on behalf of the generator, the transporter can make the change without prior express authorization of the generator. In this instance, the manifest must include a specified statement of agency. 40 C.F.R. § 263.21(b)(3) (2017), as added at 83 Fed. Reg. at 420. The rule includes a provision about generator liability where an agency relationship exists. 40 C.F.R. § 263.21(b)(4) (2017), as added at 83 Fed. Reg. at 420.

The Board incorporates the federal revisions into the Illinois hazardous waste rules with minimal deviation from the federal text. Discussion below considers issues that the Board confronts in doing so.

State Authorization Issues. USEPA adopted most of the amendments under authority of the e-Manifest Act. The Board needs not incorporate the substance of the e-Manifest System user fee rules into the Illinois regulations, but USEPA requires that the Illinois regulations refer to the USEPA rules.

USEPA revised only two provisions under the “base RCRA authority” of RCRA. 83 Fed. Reg. at 447. The Board need not incorporate one of the base-authority provisions into the Illinois rules. The other base-authority provision is not effective in Illinois until the Board adopts it.

Authorizable and Non-Authorizable Rules. After a state incorporates federal requirements into state rules, USEPA can authorize those rules. When USEPA authorizes state rules, the state rules apply in lieu of the corresponding federal rules. 42 U.S.C. § 6926(b) (2016). Some rules, however, are not authorizable.

USEPA does not authorize state rules reciting federal requirements that USEPA will itself exclusively implement. USEPA does not necessarily require a State to adopt a non-authorizable rule. Among the present amendments, USEPA will itself exclusively administer the e-Manifest System user fees system and the hazardous waste manifest (USEPA Forms 8700 and 8700-22A) printing requirements. These are not authorizable rules. 83 Fed. Reg. at 447-48 and notes 11 and 12. However, USEPA requires that the state rules at least make some reference to the federal requirements. 83 Fed. Reg. at 448 and note 13.

Rules Adopted Under Base RCRA Authority. Rules adopted by USEPA under base RCRA authority⁵ are authorizable, and they do not go into effect in Illinois until the Board adopts them. 42 U.S.C. § 3006(b) (2018); 83 Fed. Reg. at 447; *but see* 42 U.S.C. § 3006(g) (2018) (rules adopted under authority of the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, 98 Stat. 3221 (Nov. 8, 1984) go into effect when federally effective). USEPA adopted two provisions under base RCRA authority: the hazardous waste manifest printing requirements in 40 C.F.R. § 262.21(f)(5) through (f)(7)⁶ and the provision for en-route changes in destination for hazardous waste shipments in 40 C.F.R. § 263.21(b). 83 Fed. Reg. at 448.

As non-authorizable rules, USEPA does not require states to include the hazardous waste manifest form printing requirements in the state program. 83 Fed. Reg. at 447 note 12 and 448. The Illinois rules need only require use of USEPA-approved manifests. 40 C.F.R. § 271.10(f)(1) (2017).

The USEPA requirements for en-route destination changes for hazardous waste shipments are authorizable. The State must incorporate the USEPA amendments to maintain

⁵ Rules adopted under § 42 U.S.C. §§ 42 U.S.C. 6921(a) and (b), 6922(a), 6923(a), 6924(a), and 6925(a) (2017).

⁶ USEPA does not include subsection (f)(8) in this discussion. Since it relates to printing manifest forms, the Board assumes that this subsection has the same status as not authorizable or required.

consistency with the federal rule.⁷ 83 Fed. Reg. at 447. Adopted by USEPA under base RCRA authority, these requirements will not go into effect in Illinois until the Board adopts them. Until the Board adopts the requirements, the Illinois rule in 35 Ill. Adm. Code 723.121(b) is more stringent than corresponding 40 C.F.R. § 263.21(b).

Rules Adopted Under e-Manifest Act Authority. All federal requirements adopted under authority of the e-Manifest Act were effective on the federal effective date, June 30, 2018. 83 Fed. Reg. at 447-48; *see* 42 U.S.C. § 6939g(g)(2) (2016). Only some are authorizable.

As explained above, the user-fee-related provisions are non-authorizable, but the Illinois rules must reference the USEPA requirements. The required references to Subparts FF of 40 C.F.R. 264 and 265 appear in 35 Ill. Adm. Code 720.104(d) and 720.105(b)(2). The required references to 40 C.F.R. §§ 264.1311 through 264.1316 and 265.1311 through 265.1316 appear in 35 Ill. Adm. Code 724.171(j)(1) and (j)(2) and 725.171(j)(1) and (j)(2), respectively.

Incorporations by reference to these USEPA provisions appear in 35 Ill. Adm. Code 720.111(b). The Board follows its usual practice of incorporating by reference to the federal provisions as referenced in the text. Thus, incorporations by reference to 40 C.F.R. §§ 264.1311 through 264.1316 and 265.1311 through 265.1316 appear individually notwithstanding the overlap with the incorporations by reference to subparts FF of 40 C.F.R. 264 and 265 generally.

The Board omits individual incorporations by reference to 40 C.F.R. §§ 264.1300, 264.1310, 265.1300, and 265.1310. These are applicability statements and definitions provisions. They apply exclusively within the context of subparts FF, and they are nowhere referenced outside those subparts.

On the other hand, the non-fee-re-related provisions are authorizable. USEPA listed the following e-Manifest Act provisions as authorizable:

40 C.F.R. Provision	35 Ill. Adm. Code Provision	Subject Matter
§ 260.4	720.104	Manifest copy submission requirements
§ 260.5	720.105	Applicability of e-Manifest System user fees
§ 262.24(c)(1)	722.124(c)(1)	Mixed use of paper and e-Manifests
§ 262.24(h)	722.124(h)	Generator and post-receipt data corrections

⁷ To maintain USEPA authorization, a state's rules must remain no less stringent than and consistent with the corresponding federal rules. 42 U.S.C. §§ 6926(b) and 6929 (2016).

40 C.F.R. Provision	35 Ill. Adm. Code Provision	Subject Matter
§ 263.20(a)(9)	723.120(a)(9)	Transporter and post-receipt data corrections
§§ 264.71(a)(2)(v) & 265.71(a)(2)(v)	724.171(a)(2)(E) & 725.171(a)(2)(E)	Destination facility paper manifest submissions to the System
§§ 264.71(j) & 265.71(j)	724.171(j) & 725.171(j)	Imposing user fees on destination facilities
§§ 264.71(l) & 265.71(l)	724.171(l) & 725.171(l)	Destination facilities and post-receipt data corrections

Deviations from the Federal Text. The Board revises segments of USEPA’s language. The following paragraphs consider only the more significant revisions.

Table 3 of the IIS-RA(P) for this rulemaking itemizes all revisions, including those addressed below.

State-Only Regulated Waste. As mentioned above, the e-Manifest System user fees apply to all use of the USEPA hazardous waste manifest. This includes wastes not considered hazardous waste under RCRA but which state law deems hazardous waste requiring use of the manifest. USEPA defines the term “state-only regulated waste” as follows:

- (1) A non-RCRA waste that a state regulates more broadly under its state regulatory program, or
- (2) A RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

40 C.F.R. § 260.5(a)(1) and (a)(2), as added at 83 Fed. Reg. at 420.

The Board clarifies these as follows:

- 1) A waste that USEPA has not designated hazardous waste but which a state more broadly regulates as hazardous waste under its state regulatory program; or
- 2) A waste that USEPA has designated hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

The terms “non-RCRA waste” and “RCRA hazardous waste” are not defined. “Hazardous waste” and “manifest” are defined terms. 40 C.F.R. § 260.10 (2017). The Board uses the defined terms in 35 Ill. Adm. Code 720.105(a)(1) and (a)(2). Changing “non-RCRA waste” to “waste that USEPA has not designated hazardous waste” and “RCRA hazardous

waste” to “waste that USEPA has designated hazardous waste” clarifies the regulatory status of the intended wastes at the federal level. Changing “regulates more broadly” to “more broadly regulates to require use of a manifest (USEPA Form 8700-22)” clarifies the regulatory status of the intended waste at the state level.

The Board also changes “RCRA manifest” in 40 C.F.R. § 260.5(b) to the defined term “manifest” in corresponding 35 Ill. Adm. Code 720.105(b). The Board uses the defined term to avoid suggesting that it intends a different meaning.

Possible Omissions in the Federal Text. USEPA added the subparts FF user fee provisions in both the permitted T/S/D facility standards of 40 C.F.R. 264 and the interim status T/S/D facility standards of 40 C.F.R. 265. The interim status facility standards apply to facilities that qualify for interim status until receiving a RCRA Part B permit. 40 C.F.R. §§ 264.3 and 265.1(b) (2017); *see* 40 C.F.R. § 270.70(a) (2017) (qualifying for interim status).

The new manifest copy submission requirements, at 40 C.F.R. § 260.104(a)(4) require compliance only with the permitted facility standards in subpart FF of 40 C.F.R. 264.

The Board believes that USEPA intended also to refer to the interim status facility standards of 40 C.F.R. §§ 265.71 and 265.72 and subpart FF of 40 C.F.R. 265, as applicable. For this reason, the Board changes “subpart FF of 40 C.F.R. 264” to “subpart FF of the applicable of 40 CFR 264 or 265” in 35 Ill. Adm. Code 720.104(d). Otherwise, interim status facilities receiving shipments of state-only hazardous waste need not submit the manifest to the e-Manifest System and pay the user fee.⁸ *See, e.g.*, 83 Fed. Reg. at 425-426.

Removing USEPA Manifest Format and Printing Requirements. As discussed above, the USEPA requirements for hazardous waste manifest forms and printing are non-authorizable rules that USEPA directly administers. The manifest printing specifications amended by USEPA in 40 C.F.R. § 262.21(f) correspond with 35 Ill. Adm. Code 722.121(f). These are not required segments of a state program, but USEPA requires state programs to reference the federal requirements.

The Illinois rules already include the manifest form format, content, printing, and registration requirements in 35 Ill. Adm. Code 722.121. Only subsection (g), requiring use of manifest forms from approved sources, applies beyond the scope of manifest printers. Subsection (g) applies to manifest users. The Illinois rules must include this provision. *See* 40 C.F.R. § 271.10(f)(1) (2017).

The Board sees three options with regard to the manifest printing requirements: (1) incorporate the USEPA changes into the Illinois rules to avoid inconsistency with the corresponding USEPA rule; (2) replace subsection (f) with a statement that USEPA prescribes

⁸ The compliance required with 40 C.F.R. § 264.71 in 40 C.F.R. § 260.105(b)(1) and with subpart FF of 40 C.F.R. 264 in 40 C.F.R. § 260.105(b)(2) are different. USEPA intended these provisions to apply to non-RCRA-regulated facilities. *See* 83 Fed. Reg. at 427. The federal interim status facility standards would not apply to non-RCRA-regulated facilities.

the requirements for printing hazardous waste manifest forms and approves printers of the forms; or (3) remove the entire text of 35 Ill. Adm. Code 722.121, except for subsection (g).

The Board proposes the first option to show how the text would appear incorporating the USEPA amendments. The Board, however, is inclined to follow the one of the other options on final adoption to reduce the volume of unnecessary text in the rules.

A statement replacing subsection (f) under the second option could provide as follows:

- f) USEPA exclusively administers requirements for hazardous waste manifest forms and continuation sheets (USEPA Forms 8700-12 and 8700-12A). USEPA prescribes the printing specifications for those forms in 40 CFR 262.21(f).

A statement replacing the entire text of 35 Ill. Adm. Code 722.121, retaining the requirements of subsection (g), could provide as follows:

- a) USEPA exclusively administers requirements for hazardous waste manifest forms and continuation sheets (USEPA Forms 8700-12 and 8700-12A). USEPA prescribes the manifest form format, content, printing, and registration requirements in 35 Ill. Adm. Code 722.121.
- b) Use of approved manifests.
 - 1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from USEPA to print the manifest pursuant to 40 CFR 262.21(c) and (e).

BOARD NOTE: USEPA maintains a listing of registered sources at <https://www.epa.gov/hwgenerators/approved-registered-printers-epas-manifest-registry>.

- 2) The waste generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. The generator must also determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

BOARD NOTE: This subsection (b) derives from 40 CFR 262.21(g) (2017). It is the only provision in 40 CFR 262.21 that does not exclusively apply to the form format, content, printing, and registration requirements for manifests.

The second option eliminates about two pages of rules text. The third option reduces about seven pages to less than one.

“Any Interested Person” and “Other Interested Person Shown on the Manifest.”

USEPA allows manifest corrections by “any interested person (*e.g.*, waste handler) shown on the manifest” in 40 C.F.R. §§ 264.71(l) and 265.71(l). The Board changes this to “any interested person (*i.e.*, waste handler shown on the manifest or the Agency)” in corresponding 35 Ill. Adm. Code 724.171(l) and 725.171(l). Moving “shown on the manifest” to immediately follow “any interested person” adds clarity. Using “*i.e.*” limits the scope of interested persons in a way that “*e.g.*” does not. The parenthetical thus defines “any interested person” and is closer to USEPA’s stated intent.

USEPA’s discussion of this provision makes it clear that “interested person” is limited to the persons named on the manifest and state regulators. The discussion states, “corrections would be initiated and reviewed by interested persons, *i.e.*, other handlers included on the manifest, and state regulators.” 83 Fed. Reg. at 433; *see id.* (using “another interested person (other waste handler or state)” and “any waste handler on the manifest”); *but see id.* at 434 (three times using “(*e.g.*, waste handlers named on manifests)”). The Board assumes that each of the HSM generator, all transporters, any intermediate facilities, the destination facility, and any alternate destination facility named on a manifest is a “waste handler,” as intended by USEPA.

There is no similar potential ambiguity in §§ 264.71(l)(4) and (l)(5) and 265.71(l)(4) and (l)(5). The phrase “interested persons shown on the manifest” is clear.

The Manifest Agency Statement. The generator must add a required agency statement in the “special handling instructions and additional information” segment (Item 14) of the hazardous waste manifest when it confers agency authority on the transporter to add another transporter not already listed on the manifest. 40 C.F.R. § 263.21(b)(3)(ii) (2017), as amended at 83 Fed. Reg. at 420; *see* USEPA Form 8700-22 (Rev. 12-17) (Uniform Hazardous Waste Manifest).

The agency relationship between the generator and transporter granted agency authority must appear in a contract provision. An express agency provision in a written contract executed prior to shipment clearly fulfills this requirement. It is less clear whether USEPA intended an agency provision of an oral agreement, whether before or after shipment began. Without this clearer intent, the Board does not clarify this point.

The Generator Liability Statement. The provision that allows a transporter having agency authority to add a transporter to a hazardous waste manifest includes a provision on generator liability. The statement provides in pertinent part that a grant of agency authority to a transporter “does not affect the generator’s liability or responsibility for complying with any applicable requirement under this chapter . . .” 40 C.F.R. § 263.21(b)(4) (2017), as amended at 83 Fed. Reg. at 420. “This chapter” refers to Chapter I, 40 C.F.R. 1 through 1099, the entire body of USEPA’s procedural and substantive regulations.

Translating “this chapter” to Illinois rules is difficult. The Board must include both Board and Illinois Environmental Protection Agency requirements in Chapters I and II of 35 Ill.

Adm. Code. Further, Chapter I of 40 C.F.R. extends into subject areas beyond the scope of Board and Agency regulations.

The *Federal Register* discussion of the rule includes two brief passages on this requirement. First, USEPA was addressing a commenter's concern over whether the agency provision could affect the generator's liability or responsibility. 83 Fed. Reg. at 441. The discussion continued:

In addition, § 263.21(b)(4) clarifies that any such grant of authority by a generator to a transporter to act on the generator's behalf in making changes to transporter designations does not affect the generator's liability or responsibility for compliance with the generator requirements of RCRA Subtitle C. *Id.*

By referring to Chapter I of 40 C.F.R., USEPA addressed the concern much more broadly than expressed by the commenter.

The Board proposes broadly referencing "35 Ill. Adm. Code" in corresponding 35 Ill. Adm. Code 723.121(b)(4). The Board wants to find some more specific citation for final adoption, although it recognizes that adding greater specificity risks the Illinois rule becoming less stringent than its federal counterpart.

An alternative is citation to 42 U.S.C. § 6922 (2016) (RCRA generator provisions) or 35 Ill. Adm. Code 722. The Board could change the reference on final adoption after opportunity for public comments.

"Options for Compliance on June 30, 2018." The implementation date of the e-Manifest System was June 30, 2018. The federal rules provide for submitting digital copies of manifest to the System beginning on that date. The rules allow submission of paper copies during the first three years of implementation. Beginning on June 30, 2021, the e-Manifest System will accept only digital submissions. 40 C.F.R. §§ 264.71(a)(2)(v)(A) and (a)(2)(v)(B) and 265.71(a)(2)(v)(A) and (a)(2)(v)(B) (2017), as amended at 83 Fed. Reg. at 420.

June 30, 2018 is a past date. The Board omits the topical subheadings, "Options for compliance on June 30, 2018," and introductory clauses, "Beginning on June 30, 2018," from 35 Ill. Adm. Code 724.171(a)(2)(E)(i) and 725.171(a)(2)(E)(i).

After June 30, 2021, the Board can remove 35 Ill. Adm. Code 724.171(a)(2)(E)(i) and 725.171(a)(2)(E)(i) in their entirety. The Board can then remove the topical subheadings, "Options for compliance on June 30, 2021," and introductory clauses, "Beginning on June 30, 2021," from 35 Ill. Adm. Code 724.171(a)(2)(E)(ii) and 725.171(a)(2)(E)(ii) and move the remaining texts of into 35 Ill. Adm. Code 724.171(a)(2)(E) and 725.171(a)(2)(E).

T/S/D Facility Signature Requirements. USEPA removed the hand-signature requirement from the permitted T/S/D facility standards. USEPA did not similarly remove the requirement from the interim status T/S/D facility standards. *Compare* 40 C.F.R. §§ 264.71(a)(2)(i) (2017), as amended at 83 Fed. Reg. at 420 *with* 40 C.F.R. §§ 265.71(a)(2)(i) (2017), as amended at 83 Fed. Reg. at 420. The Board believes that USEPA intended to remove the hand-signature requirement from both sets of T/S/D facility standards.

USEPA stated that the amendments allow only the generator to use a paper manifest when transferring the shipment to the initial transporter. From that point to the destination or receiving facility, all handling of the manifest will occur in the e-Manifest System. 83 Fed. Reg. at 433. Thus, USEPA likely intended to remove the hand-signature requirement from the interim status facility standards.

The Board, however, makes no effort to correct the discrepancy because it does not create a conflict in the rules. The transporter requirements and both sets of T/S/D facility standards provide that a compliant digital signature suffices where the rules require a hand signature. 40 C.F.R. §§ 263.20(a)(4)(i), 264.71(f)(1), and 265.71(f) (2017).

Conflicts with Illinois Codification Requirements. The Board revises the subsection structure in a few segments of the rules. Illinois codification requirements restrict rules format in ways that USEPA rules are not similarly limited.

Illinois does not allow marking a provision “reserved” or having only one subsection at an indent level. 1 Ill. Adm. Code 100.340(c) and (f); *Style Manual: Illinois Administrative Code and Illinois Register*, Secretary of State, Index Department, Administrative Code Division (June 2004) at 3-4.⁹ Thus, the Board moves the text of 40 C.F.R. § 260.104(a) into the preamble of corresponding 35 Ill. Adm. Code 720.104, then renumbers 40 C.F.R. § 260.4(a)(1) through (a)(4) as 35 Ill. Adm. Code 720.104(a) through (d). Similarly, the Board combines the texts of 40 C.F.R. § 262.24(c) and (c)(1) into corresponding 35 Ill. Adm. Code 722.124(c).

USEPA removed 40 C.F.R. §§ 262.24(g) and 263.20(a)(8) and marked them “reserved.” Had USEPA not added new 40 C.F.R. §§ 262.24(h) and 263.20(a)(9), the Board could simply omit the two corresponding subsections. To maintain structural consistency with the federal rules, the Board adds explanatory statements at corresponding 35 Ill. Adm. Code 722.124(g) and 723.120(a)(8).

Requests for Comments. The Board requests comments on the incorporation of the January 3, 2018 e-Manifest fees rule, revisions to the e-Manifest rule and general manifest requirements into the Illinois rules. The Board specifically requests comments on the following aspects of the revisions:

1. Does changing “a non-RCRA waste that a state regulates more broadly” to “USEPA has not designated hazardous waste but which a state more broadly regulates to require use of a manifest (USEPA Form 8700-22)” in 35 Ill. Adm. Code 720.105(a)(1) clarify the rule and comport with USEPA’s intent?
2. Does changing “a RCRA hazardous waste” to “a waste that USEPA has designated hazardous waste” in 35 Ill. Adm. Code 720.105(a)(2) clarify the rule and comport with USEPA’s intent?

⁹ Available on-line at http://www.cyberdriveillinois.com/publications/pdf_publications/admin_code_style_manual.pdf.

3. Does changing “RCRA manifest” to the defined term “manifest” in 35 Ill. Adm. Code 720.105(b) and adding a reference to the definition in 35 Ill. Adm. Code 720.110 clarify the rule and comport with USEPA’s intent?
4. Does changing the conjunction “or” to “and” in 35 Ill. Adm. Code 720.143(b)(1)(B) clarify the rule and comport with USEPA’s intent?
5. Does USEPA intend to cite to subpart FF of 40 C.F.R. 265 in 40 C.F.R. §§ 265.71 and 265.72?
6. Does the Board appropriately translate the citation to subpart FF of 40 C.F.R. 264 in 35 Ill. Adm. Code 725.171 and 725.172 to Subpart FF of 35 Ill. Adm. Code 725?
7. Is there any reason that the Board should not replace the USEPA-administered manifest form and printing requirements in 35 Ill. Adm. Code 722.121(f) with a statement that directs attention to 40 C.F.R. § 262.21(f) for those requirements?
8. Is there any reason that the Board should not replace the USEPA-administered manifest form format, content, printing, and registration requirements in 35 Ill. Adm. Code 722.121, except the manifest form use requirements of subsection (g) with a statement that directs attention to 40 C.F.R. § 262.21 for those requirements?
9. Does changing “any interested person (*e.g.*, waste handler) shown on the manifest” to “any interested person (*i.e.*, waste handler shown on the manifest or the Agency)” more clearly state USEPA’s intent?
10. Is any person other than the HSM generator, the transporters, any intermediate facilities, the destination facility, and any alternate destination facility named on a manifest a “waste handler” as intended by USEPA?
11. Assuming the required agency statement appears in Item 14 of the hazardous waste manifest before transportation begins, could a transporter redirect a shipment as agreed by an agency agreement in an oral contract?
12. Does changing “generator’s liability or responsibility for complying with any applicable requirement under this chapter” to “generator’s liability or responsibility for complying with any applicable requirement under 35 Ill. Adm. Code” change the scope intended by USEPA?
13. Would “generator’s liability or responsibility for complying with any applicable requirement under 35 Ill. Adm. Code 722” more accurately state USEPA’s intent as explained in the *Federal Register* discussion?
14. Would “generator’s liability or responsibility for complying with any applicable requirement under 42 USC 6922” more accurately state USEPA’s intent as explained in the *Federal Register* discussion?

15. Does omitting the topical subheadings, “Options for compliance on June 30, 2018,” and introductory clauses, “Beginning on June 30, 2018,” from 35 Ill. Adm. Code 724.171(a)(2)(E)(i) and 725.171(a)(2)(E)(i) change the scope of the rule or conflict with USEPA’s intent?
16. Should the Board remove the “by hand” clause from the manifest signature requirement in 35 Ill. Adm. Code 725.171(a)(1) to correspond with removal of the clause from 35 Ill. Adm. Code 724.171(a)(1)?
17. Is the rule made less clear by moving the text of 40 C.F.R. § 260.104(a) into the preamble of corresponding 35 Ill. Adm. Code 720.104, then renumbering 40 C.F.R. § 260.4(a)(1) through (a)(4) as 35 Ill. Adm. Code 720.104(a) through (d)?
18. Is the rule made less clear by combining the texts of 40 C.F.R. § 262.24(c) and (c)(1) into corresponding 35 Ill. Adm. Code 722.124(c)?

DSWR Revisions—May 30, 2018 (83 Fed. Reg. 24664)

USEPA revised the DSWR in response to *American Petroleum Institute v. EPA*, 862 F.3d 50 (D.C. Cir. 2017), reh’g granted, 883 F.3d 918 (D.C. Cir. 2018). The court vacated 2015 amendments to the rules, which required USEPA remove those rules and reinstate 2008 amendments. The following paragraphs outline the DSWR, the 2008 and 2015 amendments, and the effects of the USEPA amendments in response to the vacatur.

DSWR. The DSWR determines what secondary materials are solid waste. The determination that a secondary material is solid waste is prerequisite to determining it a hazardous waste, making the material subject to regulation as such. 40 C.F.R. § 261.3(a) (2017). The DSWR excludes various recycled materials from definition as solid waste, depending on the natures of the secondary material and the recycling activity. 40 C.F.R. § 261.2(c) (2017).

Recycling includes use, reuse, and reclamation of secondary materials. 40 C.F.R. § 261.1(a)(7) (2017). Reclamation occurs when the secondary material is processed to recover useable product or is regenerated. 40 C.F.R. § 261.1(a)(4) (2017). A secondary material that is used or reused (*see* 40 C.F.R. 261.1(a)(5) (2017)) is less likely defined as solid waste than is a secondary material that is reclaimed. *See* 40 C.F.R. § 261.2(c) (2017). Until 2008, the DSWR excluded from the definition of solid waste only “discarded” sludges and byproducts exhibiting a characteristic of hazardous waste and commercial chemical products that are listed hazardous waste.¹⁰ *Id.*

The DSWR excludes specified secondary materials from the definition of solid waste. 40 C.F.R. § 261.4(a) (2017). Until 2008, the DSWR excluded specific reclaimed materials on a narrow basis. *E.g.*, 40 C.F.R. § 261.4(a)(7), (a)(8), (a)(9), (a)(17), and (a)(22) (2008) (spent

¹⁰ The DSWR deems that a reclaimed secondary material is “discarded material” unless it is one of these three materials. 40 C.F.R. § 261.2(a)(2)(ii) (2008).

sulfuric acid, secondary materials that are returned to the original process, spent wood preserving solutions, spent mineral processing materials, and used cathode ray tubes, respectively).

DSWR I. In 2008, USEPA significantly revised the DSWR (DSWR I) by adding four broad exclusions for reclaimed materials.¹¹ 73 Fed. Reg. 64668 (Oct. 30, 2008). DSWR I defined “hazardous secondary materials” (HSMs) as secondary materials that would be regulated as hazardous waste if discarded. 40 C.F.R. § 260.10 (2009). DSWR I established four reclamation-based exclusions for HSMs from the definition of solid waste:

- 1) HSM generated and reclaimed within the U.S. under control of the generator that is managed in non-land-based units (40 C.F.R. § 261.2(a)(2)(ii) (2017));
- 2) HSM generated and reclaimed within the U.S. under control of the generator that is managed in land-based units (40 C.F.R. § 261.4(a)(23) (2017));
- 3) HSM that is transferred within the U.S. for reclamation by a person other than the generator (the transfer-based exclusion) (40 C.F.R. § 261.4(a)(24) (2017)); and
- 4) HSM that is exported for reclamation outside the U.S. (the export-based exclusion) (40 C.F.R. § 261.4(a)(25) (2017)).

DSWR I imposed varying conditions on the HSM generator and reclamation activity and any transportation of the HSM.

Some conditions applied to all four exclusions. The HSM must be contained. 40 C.F.R. §§ 261.2(a)(2)(ii) and 261.4(a)(23)(i), (a)(24)(v)(A), and (a)(25) (2009). The reclamation must be legitimate (“legitimate recycling”; *see* 40 C.F.R. § 260.43 (2009)). 40 C.F.R. §§ 261.2(a)(2)(ii) and 261.4(a)(23)(iii), (a)(24)(iv), and (a)(25) (2009). There must be no speculative accumulation of HSM (*see* 40 C.F.R. § 261.1(c)(8) (2009)). 40 C.F.R. §§ 261.2(a)(2)(ii) and 261.4(a)(23)(iii), (a)(24)(i), and (a)(25) (2009). The HSM must not be subject to another exclusion under the DSWR, spent lead-acid batteries, or K171 or K172 waste.¹² 40 C.F.R. §§ 260.43(a), 261.2(a)(2)(ii), and 261.4(a)(24)(iii) and (a)(25) (2009).

For reclamation within the U.S., the reclaimer must submit notification of waste-related activity to USEPA (*see* 40 C.F.R. § 260.42 (2009)). 40 C.F.R. §§ 261.2(a)(2)(ii) and 261.4(a)(23)(vi) and (a)(24)(v)(B)(2) (2009).

Significant other conditions applied to the transfer-based and export-based exclusions. *See* 40 C.F.R. § 261.4(a)(24)(v) and (a)(25) (2009).

¹¹ The Board adopted DSWR I in RCRA Subtitle C Update, USEPA Amendments (July 1, 2008 through December 31, 2008 and June 15, 2010) R09-16, RCRA Subtitle C Update, USEPA Amendments (January 1, 2009 through June 30, 2009) R10-4 (Oct. 7, 2010).

¹² Spent hydrotreating catalyst or spent hydrorefining catalyst, respectively. *See* 40 C.F.R. § 261.32(a) (2017).

DSWR I provided four factors for determining legitimate recycling. Two factors were mandatory conditions for determining legitimate recycling:

- 1) The HSM must provide a useful contribution to the recycling process or to a product or intermediate of the recycling process; and
- 2) The recycling process must make a useful valuable product or intermediate. 40 C.F.R. § 260.43(a)(1) and (a)(2) (2009).

The other two factors “must be considered” when determining legitimate recycling:

- 3) The generator and recycler manages the HSM as a valuable commodity (Factor 3); and
- 4) The HSM does not contain hazardous constituents not also found in or at levels greater than analogous products or exhibit a characteristic not exhibited by analogous products (Factor 4).¹³ 40 C.F.R. § 260.43(b)(1) and (b)(2) (2009).

DSWR II. USEPA revised the DSWR in 2015 (DSWR II).¹⁴ 80 Fed. Reg. 1694 (Jan. 13, 2015). DSWR II eliminated the exclusion for generator-controlled reclamation of HSM managed in non-land-based units and broadened the exclusion for generator-controlled reclamation of HSM managed in land-based units to embrace all generator-controlled reclamation of HSM. *See* 40 C.F.R. §§ 261.2(a)(2) and 261.4(a)(23) (2017).

DSWR II changed the transfer-based exclusion to the verified recycler exclusion, limiting HSM shipment to a verified reclamation facility and transfer through only verified intermediate facilities within the U.S. 40 C.F.R. § 261.4(a)(24) (2017). DSWR II established an administrative procedure for verifying facilities by a “variance” and imposed significant operational requirements on those facilities. 40 C.F.R. § 260.31(c) (2017).

DSWR II further revised the generator-controlled reclamation and transfer-based (verified recycler) exclusions. USEPA removed the ineligibility of K171 and K172 waste from the exclusions. *See* 40 C.F.R. § 261.4(a)(23)(ii)(D) and (a)(24)(iii) (2015). USEPA defined “contained.” 40 C.F.R. § 260.10 (2017). USEPA added emergency preparedness and response requirements for facilities managing HSM under an exclusion.¹⁵ 40 C.F.R. §§ 260.31(d)(4), 261.4(a)(23)(ii)(F), and (a)(24)(v)(F) (2017) and subpart M of 40 C.F.R. 261 (2017).

¹³ USEPA calls this the “toxics along for the ride” factor. *E.g.*, 80 Fed. Reg. 1694, 1726 (Jan. 13, 2015); 73 Fed. Reg. 64668, 64704-05 (June 16, 2016).

¹⁴ The Board adopted DSWR II in RCRA Subtitle C Update, USEPA Amendments (January 1, 2015 through June 30, 2015) R16-7 (Oct. 7, 2010).

¹⁵ DSWR II also added extensive facility management requirements for recycling facilities that parallel the treatment, storage, disposal facility standards, which are not of direct interest here.

DSWR II eliminated the export-based exclusion¹⁶ See 40 C.F.R. § 261.4(a)(25) (2017) (marked “reserved”). It added an exclusion for specified spent solvents reprocessed in specified industries. 40 C.F.R. § 261.4(a)(27) (2017).

Finally, DSWR II made all four factors mandatory conditions for determining legitimate recycling. Thus Factors 3 and 4 changed from factors for mandatory consideration to mandatory conditions for determining legitimate recycling:

- 3) The generator and recycler must manage the HSM as a valuable commodity (Factor 3); and
- 4) The HSM must not contain hazardous constituents not also found in or at levels greater than analogous products or exhibit a characteristic not exhibited by analogous products (Factor 4). 40 C.F.R. § 260.43(b)(1) and (b)(2) (2017).

DSWR III. The court in *American Petroleum Institute v. EPA*, 862 F.3d 50 (D.C. Cir. 2017), reh’g granted, 883 F.3d 918 (D.C. Cir. 2018) vacated segments of DSWR II. The court vacated the verified recycler exclusion and the DSWR II version of Factor 4 of the legitimate recycling determination. The court reinstated the transfer-based exclusion. The court upheld the containment and preparedness and prevention requirements of DSWR II and the DSWR II version of Factor 3 for the legitimate recycling determination. *American Petroleum Institute v. EPA*, 862 F.3d 50, 75 (D.C. Cir. 2017), reh’g granted, 883 F.3d 918, 923 (D.C. Cir. 2018).

On May 30, 2018 USEPA revised the DSWR (DSWR III) in response to the *American Petroleum Institute* decision. USEPA removed the DSWR II verified recycler exclusion and reinstated the DSWR I transfer-based exclusion. See 40 C.F.R. § 261.4(a)(24) (2017), as amended at 83 Fed. Reg. at 24668. USEPA also reinstated the export-based exclusion.¹⁷ USEPA retained the emergency preparedness and preparation requirements from DSWR II. 40 C.F.R. §§ 260.31(d)(4), 261.4(a)(23)(ii)(F), and (a)(24)(v)(F), as amended at 83 Fed. Reg. at USEPA reverted the DSWR II mandatory condition version of Factor 4 into the DSWR I version as a factor for mandatory consideration for the legitimacy determination. See 40 C.F.R. § 260.43(b), as amended at 83 Fed. Reg. at 24667-68.

Deviations from the Federal Text. The Board incorporates the federal DSWR III revisions into the Illinois hazardous waste rules with minimal deviation from the federal text. No further discussion of these corrections appears in this opinion and order. Table 3 of the IIS-RA(P) for this rulemaking itemizes the deviations from the literal text of the federal rules.

Compare subparts I, J, M, AA, BB, and CC of 40 C.F.R. 261 (2017) with subparts I, J, M, AA, BB, and CC of 40 C.F.R. 264 and 265 (2017).

¹⁶ USEPA concluded it impossible to verify legitimacy of reclamation in a foreign jurisdiction. 80 Fed. Reg. 1694, 1711 (Jan. 13, 2015).

¹⁷ USEPA observed that the *American Petroleum Institute* court (862 F.3d at 64)) discussed the “transfer-based exclusion” citing to both 40 C.F.R. § 261.4(a)(24) and (a)(25). 83 Fed. Reg. at 24665 note 4.

Discussion below is limited to issues that the Board confronts incorporating the federal changes into the Illinois rules.

More Precise Citation to USDOT Shipping Identifiers. The export-based exclusion requires that a generator notify USEPA of an intended export shipment before shipment. The notification must include specified information, including the U.S. Department of Transportation (USDOT) proper shipping name, hazard class, identification number for each HSM in the shipment, “as identified in 49 CFR parts 171 through 177.” 40 C.F.R. § 261.4(a)(25)(i)(B), as added at 83 Fed. Reg. at 24670. Similarly, the export-based exclusion requires generators to report the reclaimers and intermediate facilities receiving its HSM using these USDOT identifiers for the HSM. 40 C.F.R. § 261.4(a)(25)(xi)(D), as added at 83 Fed. Reg. at 24671.

This information appears only in the Hazardous Materials Table in the USDOT hazardous materials transportation rules. See 49 C.F.R. § 172.101 (2017). All other USDOT rules generally cited by USEPA perform other functions.¹⁸ The Board narrows the citation by making it specific to the Hazardous Materials Table in 35 Ill. Adm. Code 721.104(a)(25)(A)(ii) and (a)(25)(I)(iv).

References to the WIETS. The export-based exclusion refers to USEPA’s Waste Import and Export Tracking System (WIETS) in three locations. A generator may satisfy recordkeeping requirements by maintaining the information in its WIETS account (two references). Generators must file annual reports of HSM exports into the WIETS (a single reference). All three refer to “EPA’s Waste Import Export Tracking System (WIETS), or its successor system.” 40 C.F.R. § 261.4(a)(25)(x) and (a)(25)(xi), as added at 83 Fed. Reg. at 24671.

The Board revises these references in corresponding 35 Ill. Adm. Code 721.104(a)(25)(J) and (a)(25)(K). The Board uses the full name for the WIETS only in the first reference, changing the second and third to abbreviated form “WIETS.”

More important, the Board removes the parenthetical “or its successor system.” As explained in RCRA Subtitle D Update, USEPA Amendments (July 1, 2016 through December 31, 2016), R17-14, RCRA Subtitle C Update, USEPA Amendments (July 1, 2016 through December 31, 2016), R17-15, RCRA Subtitle C Update, USEPA Amendments (July 1, 2017 through December 31, 2017), R18-12, UIC Update: Miscellaneous Non-Substantive Revisions and Corrections to 35 Ill. Adm. Code 704, 705, 730, and 738, R18-31 (cons.), slip op. at 6 (May 24, 2018), the Board cannot require use of a data system that does not yet exist. If USEPA changes the required system, the Board must change the rule to identify the successor system.

“Addressed Under a RCRA Part B Permit or Interim Status Standards.” Prior to shipment of HSM for reclamation, the transfer-based exclusion requires a generator to make reasonable efforts to ensure that the reclaimer will legitimately recycle the material. This

¹⁸ Including, general information, general rules, and definitions (49 C.F.R. 171) and general shipping and packaging (49 C.F.R. 173), rail shipment (49 C.F.R. 174), aircraft shipment (49 C.F.R. 175), vessel carriage (49 C.F.R. 176), and transport by public highway (49 C.F.R. 171) requirements.

requirement applies “where the management of the hazardous secondary material is not addressed under a RCRA part B permit or interim status standards.” USEPA used the phrase twice in 40 C.F.R. § 261.4(a)(24)(v)(B), as added at 83 Fed. Reg. at 420. USEPA used the phrase again in 40 C.F.R. § (a)(24)(v)(C), requiring retaining documentation of the reasonable efforts.

USEPA’s language raises questions. Is the issue the regulatory status of the T/S/D facility or how the HSM is managed? What is a “RCRA Subpart B permit”? Will phrasing the provision in terms of Illinois rules include HSM shipped for reclamation in a sister state? Does USEPA intend to include HSM shipped to facilities operated under 40 C.F.R. 266 and 267?

When originally incorporating this clause into 35 Ill. Adm. Code 721.104(a)(24)(E)(ii), the Board used “where the management of the hazardous secondary material is regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727.”¹⁹ RCRA Subtitle C Update, USEPA Amendments (January 1, 2015 through June 30, 2015) R16-7, slip op. at 20-21 (Oct. 7, 2010). The Board now changes that language to that chosen for 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) and (a)(24)(E)(iii).

The Board revises USEPA’s language to “where the hazardous secondary material is managed in a unit that is not subject to a RCRA permit or interim status standards” in 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) and (a)(24)(E)(iii). This more closely expresses USEPA’s intent. The following paragraphs explain.

RCRA Part B Permit or Interim Status Standards. Management of HSM is not subject to a RCRA Part B permit or interim status standards by the substantive provisions themselves. See 40 C.F.R. §§ 264.1(b) and 265.1(b) (2017); see 40 C.F.R. § 261.3(a)(1) (2017) (defining hazardous waste as solid waste fulfilling specified criteria); 40 C.F.R. § 261.4(a) (2017), as amended at 83 Fed. Reg. at 420 (excluding HSM from definition as solid waste). There is no substantive requirement that a permitted or interim status facility must manage anything but hazardous waste according to the standards of 40 C.F.R. 264 or 265. See 40 C.F.R. §§ 264.1 and 265.1 (2017); 40 C.F.R. § 261.4(a), as amended at 83 Fed. Reg. at 420.

The Board does not agree that management of HSM will not be “addressed” under a RCRA part B permit or interim status standards. Management of HSM is not subject to RCRA permit or interim status requirements. A facility that treats, stores, or disposes of hazardous waste must have a RCRA permit. 40 C.F.R. § 270.1(c) (2017). A facility existing when it becomes subject to RCRA permit requirements can qualify by timely submitting a RCRA Part A permit application. 40 C.F.R. § 270.10(e) (2017). Facilities that manage hazardous waste are expressly excluded from these requirements by 40 C.F.R. § 261.4. 40 C.F.R. § 270.1(c)(2)(iii) (2017).

Although detailed notification of HSM activity is required (40 C.F.R. 260.42(a) (2017), as amended at 83 Fed. Reg. at 420; see *RCRA Subtitle C Reporting Instructions and Forms (EPA*

¹⁹ Also in 35 Ill. Adm. Code 720.130(f) and 720.131(d), which the Board now removes as a result of DSWR III.

Forms 8700-12, 8700-13 A/B, 8700-23 (expires 05/31/2020) at 31-38), there is no requirement to identify HSM-related activity in a Part A or Part B RCRA permit application. A Part A permit application needs only identify activities that require a permit. 40 C.F.R. 270.13(a) (2017). A Part B permit application needs only describe hazardous wastes managed at the facility. 40 C.F.R. § 270.14(b)(2), (c)(7)(i), and (d)(1)(v) (2017).

“Addressed under a RCRA Part B permit or interim status standards” is unclear. USEPA’s discussion of the transfer-based exclusion in DSWR I explained its intent as follows:

RCRA permitted or interim status facilities where the permit or interim status standards extend to the management of the hazardous secondary materials being reclaimed are already subject to stringent design and operating standards, must demonstrate financial assurance, and are subject to the corrective action requirements in the event of environmental problems. * * *

[I]f the permit or interim status standards do not extend to the hazardous secondary materials being reclaimed, the same level of assurance is not guaranteed. Therefore, if a reclamation or intermediate facility only has a RCRA permit or complies with the interim status standards for another onsite operation unrelated to the hazardous secondary materials of interest to the generator, then the hazardous secondary material generator is required to make a reasonable efforts inquiry of the facility as if it were a nonpermitted facility. 73 Fed. Reg. 64668, 64686 (Oct. 30, 2008).

The standards do not apply to the HSM, but to the equipment and operations managing the HSM. The appropriate focus is on the regulatory status of the units managing the HSM, not the regulatory status of the T/S/D facility. USEPA intended that the generator needs not undertake reasonable efforts if the T/S/D receiving the HSM manages the HSM according to the substantive 40 C.F.R. 264 or 265 standards. It is not enough that the T/S/D facility have a RCRA Part B permit or interim status.

The Board further believes USEPA intended that all units used to manage the HSM be subject to a RCRA Part B permit or interim status standards. The Board phrases in the singular, “a unit that is not subject to.” The plural, “units that are not subject to,” would allow management in a unit not subject to a permit or interim status standards.

The Board observes a flawed assumption underlying USEPA’s waiver of reasonable efforts under the transfer-based exclusion. The Board makes no effort to correct it. There is no guarantee that a generator will learn of changes in management of its HSM. A T/S/D facility managing HSM in units subject to a RCRA permit or interim status standards needs only ensure that USEPA or state regulators become aware of hazardous waste-related changes in those units. It would thus appear that a generator would need to exert reasonable efforts to monitor the T/S/D facility’s regulatory status and management of its HSM to avoid the required reasonable efforts to ensure legitimate recycling of the HSM.

A facility operating under a RCRA permit must seek modification of its permit when changes in activity or equipment occur. 40 C.F.R. § 270.41(a) (2017). Similarly, an interim

status facility must modify its Part A RCRA permit application for changes in its hazardous waste-related activity. 40 C.F.R. § 270.72(a)(1) and (a)(3) (2017). However, using the *Notification of RCRA Subtitle C Activities (Site Notification Form)* (USEPA Form 8700-12) or a modified RCRA Part A permit application notifies USEPA and state regulatory agencies, not the generator. Further, it is unclear that seeking permit modification or modifying the Part A permit application is required based solely on HSM-related activity.

USEPA recommends that the HSM generator get on the T/S/D facility mailing list to receive notice of any changes that could affect management of its HSM. 73 Fed. Reg. at 64686. But use of this list applies only to modification of RCRA permits, not to changes at interim status facilities. Compare 40 C.F.R. § 270.42(a)(1)(ii), (b)(2), (b)(6)(iv)(A), (c)(2), (e)(2)(iii), and (f)(1) (2017) with 40 C.F.R. §§ 270.10(e)(1) and 270.72(a) (2017).

RCRA Part B Permit. Nowhere do the USEPA rules define “RCRA Part B permit.” See 40 C.F.R. §§ 260.10 and 270.102 (2017). USEPA uses the term only three times in its RCRA Subtitle C rules and only within the context of the transfer-based exclusion.²⁰ See 40 C.F.R. § 261.4(a)(24)(v)(B) and (a)(24)(v)(C). The term gains meaning by inference.²¹

The Board prefers the defined and more generally used term, “RCRA permit.” Although defined in terms of Illinois law and regulations (*see* 35 Ill. Adm. Code 720.110 (definitions of “permit” and “RCRA permit”)), the Board believes that the term embraces permits issued by sister states and USEPA.

HSM Shipped for Reclamation in a Sister State. The Board does intend to limit the transfer-based exclusion and require a generator to make reasonable efforts to ensure legitimate recycling at permitted T/S/D facilities outside Illinois. Strictly construed, the defined term, “RCRA permit,” in 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) and (a)(24)(E)(iii) would exclude a permit issued by USEPA or a sister state. Using “regulated under 35 Ill. Adm. Code 724 or 725” would exclude shipments of HSM to T/S/D facilities in sister states. The Board does not desire that result.

The Board could broaden the language to refer to a federal provision under which RCRA permits issue in all states. RCRA section 3005 provides for T/S/D facility permits.²² All RCRA

²⁰ USEPA removed three related provisions that used the term. See §§ 260.30(f), 260.31(d), and 261.4(a)(23)(vi)(G) (2017), removed at 83 Fed. Reg. at 420.

²¹ USEPA may grant a permit only when the application is complete. 40 C.F.R. § 270.10(c) (2017). A Part B permit application completes the permit application. *E.g.*, 40 C.F.R. §§ 270.10(d) and 270.14 through 270.28 (2017). Thus, “RCRA Part B permit” means the permit that issues on completion of the permit application process.

²² There is no USEPA rule applying in all states that the Board could cite. USEPA’s permit rules provide, “Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit.” 40 C.F.R. §§ 270.1(a) (2017). The requirements for state RCRA programs require states to prohibit operation without a permit, but

permits throughout the U.S. issue under authority intended to satisfy this provision. Section 3005 mandates that USEPA establish permit regulations, requires a T/S/D facility “to have a permit issued pursuant to this section,” and prohibits operation “except in accordance with such a permit.” 42 U.S.C. § 6925(a) (2016).

Citation to RCRA section 3005 would embrace all T/S/D facility permits, but this would require incorporation by reference and making the Illinois rule more complicated. Adding a Board note to subsection (a)(24)(E) can explain that “RCRA permit” includes a permit issued by USEPA or a sister state. Alternatively, the Board could add a Board note to this effect at the definition of “RCRA permit” in 35 Ill. Adm. Code 720.110, but that provision is not involved in this rulemaking, and the need to do so for the sake of other Board rules is presently uncertain.

Management Under 40 C.F.R. 266 and 267 Standards. Managing recyclable materials under the specific wastes/specific facility standards of 40 C.F.R. 266 or the standardized permit requirements of 40 C.F.R. 267 is possible. The federal rule does not include these as obviating reasonable efforts to determine that a facility is engaged in legitimate recycling.

Materials used for precious metals recovery are regulated under subpart C of 40 C.F.R. 266. 40 C.F.R. §§ 261.6(a)(2)(iii) and 266.70 (2017). Materials processed or burned in a boiler or industrial furnace is regulated by subpart H 40 C.F.R. 266. When adopting DSW I, USEPA stated that the exclusions do not apply to managed in those activities. 73 Fed. Reg. 64668, 64713-15 (Oct. 30, 2008). The rule expressly excludes spent lead-acid batteries that are managed under subpart G of 40 C.F.R. 266. 40 C.F.R. § 261.4(a)(24)(iii), as added at 83 Fed. Reg. at 420. There is no mention of materials used to make a product that is used in a manner constituting disposal that are regulated under subpart C of 40 C.F.R. 266. *See* 40 C.F.R. § 266.20 (2017).

Management of hazardous waste can occur under the standardized permit requirements. There is no mention of these requirements in the rule or USEPA’s discussion of the rule. However, the Standardized Permit Rule applies only to materials managed on-site where generated or at another site under control of the generator. 40 C.F.R. §§ 124.201 and 270.1(b) (2017). That is outside the scope of the transfer-based exclusion. *See* 40 C.F.R. § 261.4(a)(24), as added at 83 Fed. Reg. at 420.

The Board concludes that USEPA did not intend to include references to 40 C.F.R. 266 and 267 in this segment of text. The Board removes references to these Parts where formerly added in 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) (twice).²³

do not specifically include 40 C.F.R. § 270.1(a) as a required element of their programs. 40 C.F.R. §§ 271.13 and 271.14 (2017).

²³ It is not necessary to remove the similar references from 35 Ill. Adm. Code 720.130(f) and 720.131(d) because this rulemaking removes both provisions based on USEPA amendments.

Conflicts with Illinois Codification Requirements. The Board revised the subsection structure in two segments of the rules. Illinois codification requirements restrict rules format in ways that USEPA rules are not similarly limited.

Illinois does not allow subsection indents beyond the fourth level. 1 Ill. Adm. Code 100.340(d); *Style Manual: Illinois Administrative Code and Illinois Register*, Secretary of State, Index Department, Administrative Code Division (June 2004) at 3.²⁴ Generally, the Board combines the texts of subsidiary subsections into the parent subsection to resolve the conflict. Where combining text is not possible, the Board adds a new subsection to accommodate the texts.

The Board does both in the present amendments with texts that USEPA codified at the fifth indent level. The Board combines the documentation, certification, and records requirements of 40 C.F.R. § 261.4(a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) into 35 Ill. Adm. Code 721.104(a)(24)(E)(iii). The Board adds 35 Ill. Adm. Code 721.104(a)(24)(H) to accommodate the required generator inquiries of 40 C.F.R. § 261.4(a)(24)(v)(B) and (a)(24)(v)(B)(1) through (a)(24)(v)(B)(5).

Requests for Comments. The Board requests comments on the incorporation of the May 30, 2018 DSWR III revisions into the Illinois rules. The Board specifically requests comments on the following aspects of the revisions:

1. Does the Board appropriately narrow the cited source for USDOT hazardous materials identifiers to the Hazardous Materials Table in 49 C.F.R. § 172.101?
2. Does the Board appropriately remove the parenthetical “or its successor system” from references to the WIETS?
3. Is there any alternative to accommodate a successor system to either the WIETS or the AES in the rules other than prompt amendment to name any successor system that arises?
4. Does the Board appropriately change the focus from the management of the HSM being subject to a RCRA permit or interim status standards to the management of HSM in units subject to a RCRA permit or interim status standards to obviate reasonable efforts on the part of the generator?
5. Is it true that management of excluded HSM at any facility will not be “addressed by” a RCRA permit or interim status standards?
6. Is “subject to” a better choice of wording than “addressed by”?
7. Does the Board appropriately change “RCRA Part B permit” to “RCRA permit”?

²⁴ Available on-line at http://www.cyberdriveillinois.com/publications/pdf_publications/admin_code_style_manual.pdf.

8. Is it clear that “RCRA permit” embraces a permit issued by USEPA or a sister state?
9. Does USEPA intend that all management of the HSM occur in RCRA-regulated units obviates reasonable efforts on the part of the generator?
10. Did the Board appropriately use “RCRA permit or interim status standards” and avoid citing to the specific rules, 35 Ill. Adm. Code 724 and 725?
11. Would it be preferable to use “where the hazardous secondary material is managed in a unit that is not subject to a permit that satisfies the requirements of section 3005 of RCRA (42 USC 6925) or interim status standards” instead of “where the hazardous secondary material is managed in a unit that is not subject to a RCRA permit or interim status standards” as proposed in 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) and (a)(24)(E)(iii)?
12. Does USEPA intend that “a RCRA Part B permit or interim status standards” include regulation under the requirements of 40 C.F.R. 266 or 267?
13. Is the rule made less clear by combining the requirements of 40 C.F.R. § 261.4(a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) into 35 Ill. Adm. Code 721.104(a)(24)(E)(iii)?
14. Is the rule made less clear by moving the requirements of 40 C.F.R. § 261.4(a)(24)(v)(B) and (a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) into added 35 Ill. Adm. Code 721.104(a)(24)(H)?

Board-Generated Revisions

In an identical-in-substance proceeding, the Board must adopt the verbatim text of federal regulations except for (1) changes needed for compliance with the Illinois Administrative Code; (2) technical changes that do not change the scope or meaning of the regulations; and (3) typographical and grammatical errors. In addition, the Board must not adopt USEPA rules that are not applicable to Illinois or “things which are outside the Board’s normal functions.” *See* 415 ILCS 5/7.2(a), (a)(1), (a)(2), and (a)(7) (2014). Thus, the Board will make only minor, non-substantive deviations from the federal text.

As discussed above, the consolidated R17-14/R17-15/R18-12/R18-31 amendments are pending. The consolidated R17-14/R17-15/R18-12/R18-31 amendments will complete most of the minor, non-substantive revisions included in this docket R19-3. Table 1 in the IIS-RA(P) for this rulemaking lists the rules that are involved in both rulemakings, and the entries in Table 4 indicate the revisions included also in the consolidated R17-14/R17-15/R18-12/R18-31 amendments.

In an identical-in-substance rulemaking, the Board finds it necessary to make non-substantive corrections and stylistic revisions. The paragraphs below describe the revisions most often involved. None of those specific revisions in this rulemaking that are not also involved in the consolidated R17-14/R17-15/R18-12/R18-31 amendments merit discussion. Table 4 in the

IIS-RA(P) for this rulemaking lists all revisions not derived from USEPA amendments.

Updates to Incorporations by Reference and Textual References to Federal Rules

As a routine matter, the Board updates the versions of federal regulations and statutory provisions incorporated by reference in 35 Ill. Adm. Code 720.111 and 810.104. The most current available version of the *Code of Federal Regulations* is 2017 for all of Titles 29, 33, 40, and 49. For Title 10, 2018 is the latest version.²⁵ The most current available version of the *United States Code* is the 2016 edition for all but Title 50, for which 2015 is the most current.

The Board periodically checks for the most recent versions of other governmental documents incorporated by reference. The Board found no revisions to required OECD or U.S. Government Services Administration (USGSA) documents incorporated by reference, but did find later versions for required U.S. Department of Defense (USDOD) documents.

Stylistic Revisions Generally Requested by JCAR Staff

The Board uses this opportunity to make several stylistic changes that JCAR staff usually requests. The Board moves commas and periods outside the ending quotation mark where the punctuation is not part of the quoted material. The Board removes “of this Section” from cross references to subsections and “of this Part” from cross references to Subparts, Tables, and Appendices. The Board also removes many bracketed citations to *Illinois Compiled Statutes* where the statutory citation is previously given in the text or included in a definition of the Act.

ORDER

The Board directs the Clerk to provide notice in the *Illinois Register* of the appended proposed amendments to the hazardous waste rules at 35 Ill. Adm. Code 720 through 725.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 26, 2018, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

²⁵ The same is true for Title 15 for which the present federally driven amendments add an incorporation by reference.

TEXT OF THE PROPOSED AMENDMENTS

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

PART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section	
720.101	Purpose, Scope, and Applicability
720.102	Availability of Information; Confidentiality of Information
720.103	Use of Number and Gender
<u>720.104</u>	<u>Manifest Copy Submission Requirements for Certain Interstate Waste Shipments</u>
<u>720.105</u>	<u>Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments</u>
720.109 <u>720.104</u>	Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section	
720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

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

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7189, effective March 13, 2014; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1542, effective January 12, 2015;

amended in R16-7 at 40 Ill. Reg. 11286, effective August 9, 2016; amended in R19-3 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 720.104 Manifest Copy Submission Requirements for Certain Interstate Waste Shipments

Where the state in which waste is generated or the state in which waste will be transported to a designated facility requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste must, regardless of the state in which the designated facility is located must do all of the following:

- a) Complete the facility portion of the applicable manifest;
- b) Sign and date the facility certification;
- c) Submit to the e-Manifest system a final copy of the manifest for data processing purposes; and
- d) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of the applicable of 40 CFR 264 or 265, each incorporated by reference in Section 720.111.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.105 Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments

- a) For purposes of this Section, “state-only regulated waste” means one of the following:
 - 1) A waste that USEPA has not designated hazardous waste but which a state more broadly regulates to require use of a manifest (USEPA Form 8700-22) under its state regulatory program; or
 - 2) A waste that USEPA has designated hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.
- b) In any case in which a state requires a manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management must do both of the following:

- 1) Comply with 35 Ill. Adm. Code 724.171 (Use of Manifest System) and 724.172 (Manifest Discrepancies); and
- 2) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR 264, incorporated by reference in Section 720.111.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section ~~720.109-720.104~~ Electronic Reporting

- a) Scope and Applicability.
 - 1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:
 - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
 - B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
 - 2) Electronic document submission under this Section can occur only as follows:
 - A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or
 - B) For submissions of documents to the State, submissions may occur only under the following circumstances:
 - i) To the Board, into the Board's Clerk's Office On-Line (COOL) system at www.ipcb.state.il.us. ~~As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been~~

~~submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;~~

- ii) To the Agency, into any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.~~As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board or the Agency may use that system until USEPA disapproves its use in writing; or~~
 - iii) ~~— The Board or the Agency may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.~~
- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) ~~of this Section~~:
 - A) Any document submitted via facsimile;
 - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
 - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
 - 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as

described in subsection (a)(2)(B)(iii) ~~of this Section~~, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000 (2017) ~~(2012)~~.

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and
 - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A) ~~of this Section~~.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 (2017) ~~(2012)~~.

- d) Procedures for submission of electronic documents in lieu of paper documents to the Board or the Agency.
- 1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].
 - 2) The Board or the Agency may accept electronic documents under this Section only as provided in subsection (a)(2)(B) ~~of this Section~~.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 (2017)-(2012).

- e) Effects of submission of an electronic document in lieu of paper documents.
- 1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
 - 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
 - 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
 - 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 3.4 and 3.2000(c) (2017)-(2012).

- f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
- 1) The Administrative Procedure Act ~~[5 ILCS 100]~~;
 - 2) The Freedom of Information Act [5 ILCS 140];
 - 3) The State Records Act [5 ILCS 160];
 - 4) The Electronic Commerce Security Act [5 ILCS 175];
 - 5) The Environmental Protection Act ~~[415 ILCS 5]~~;
 - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and

- 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1) ~~of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) ~~of this Section~~ is derived from 40 CFR 3.2(c) ~~(2017)-(2012)~~.

BOARD NOTE: Derived from 40 CFR 3, 145.11(a)(33), 271.10(b), 271.11(b), and 271.12(h) ~~(2017)-(2012)~~.

(Source: Renumbered at 42 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.111 References

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

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

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

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

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

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

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

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

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

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

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

“Evaporative Loss from External Floating-Roof Tanks;”, API publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 721.983 and 725.984.

“Guide for Inspection of Refinery Equipment;”, Chapter XIII, “Atmospheric and Low Pressure Storage Tanks;”, 4th Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 721.291, 724.291, 724.293, 725.291, and 725.292.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)," approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope," approved 1992, USEPA-approved for 35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 721.963, 724.963, and 725.963.

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

ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

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

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

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

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

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

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

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

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

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

“Flammable and Combustible Liquids Code;” NFPA 30, ~~issued July 14, (1984)~~, referenced in 35 Ill. Adm. Code 721.298, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

“Flammable and Combustible Liquids Code;” NFPA 30, ~~issued August 7, (1987)~~, referenced in 35 Ill. Adm. Code 721.298, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

“Flammable and Combustible Liquids Code;” NFPA 30, ~~issued July 18, (2003)~~, as supplemented by TIA 03-1, ~~issued July 15, (2004)~~, and corrected by Errata 30-03-01, ~~issued August 13, (2004)~~, referenced in 35 Ill. Adm. Code 721.298, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

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

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

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

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

“Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material

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

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: water.epa.gov/scitech/methods/cwa/methods_index.cfm. Revision A is also from the USEPA, National Service Center for Environmental Publications (NSCEP) website at www.epa.gov/nscep/index.html.

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

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

“North American Industry Classification System;”, July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of “NAICS Code”) for the purposes of Section 720.142, and in 35 Ill. Adm. Code 721.104.

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

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

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

BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the

following Internet address:

www.epa.gov/scram001/guidance/guide/scrng.wpd.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 721.934, 721.963, 724.934, 724.963, 725.934, and 725.963.

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

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

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

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

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

OECD Guidance Manual. “Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations;”, 2009 (also called “Guidance Manual for the Control of Transboundary Movements of Recoverable Materials” in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008):

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

“Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure” (individually referred to as “Annex B to OECD Guidance Manual” in 35 Ill. Adm.

Code 722), combining Appendix 3 to OECD decision C(2001)107/FINAL, as amended as described above, together with the text of Annex IX (“List B”) to the “Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal” (“Basel Convention”).

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

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA’s lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL (with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to “OECD C(2001)107/FINAL” in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

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

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

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

USDOD. Available from the United States Department of Defense:

“DOD Ammunition and Explosives Safety Standards” (DOD 6055.09-~~STD~~), as in effect on February 29, 2008 and revised December 15, 2017, December 18, 2017, December 29, 2017, and January 24, 2018, referenced in 35 Ill. Adm. Code 726.305.

“The Motor Vehicle Inspection Report” (DD Form 626), as in effect in October 2011 ~~March 2007~~, referenced in 35 Ill. Adm. Code 726.303.

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

“The Signature and Tally Record” (DD Form 1907), as in effect in October 2011 ~~November 2006~~, referenced in 35 Ill. Adm. Code 726.303.

“DOD Multimodal Dangerous Goods Declaration” (DD Form 2890), (Sep. 2015) ~~“Dangerous Goods Shipping Paper/Declaration and Emergency Response Information for Hazardous Materials Transported by Government Vehicles” (DD Form 836)~~, as in effect in September 2015 ~~December 2007~~, referenced in 35 Ill. Adm. Code 726.303.

BOARD NOTE: DOD 6055.09, DD Form 626, ~~STD~~ is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>. DD Form 1348, DD Form 1907, ~~DD Form 836~~, and DD Form 2890 ~~DD Form 6055.09-STD~~ are available on-line for download in pdf format from www.esd.whs.mil/DD/ ~~http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm~~.

USEPA, e-Manifest System. Available from United States Environmental Protection Agency, e-Manifest System (<https://www.epa.gov/e-manifest>):

“Hazardous Waste Manifest Instructions.” Instructions for revision 12-17 of USEPA Forms 8700-22 and 8700-22A, referenced in 35 Ill. Adm. Code 722.121.

BOARD NOTE: Also available on-line from the USEPA website at following Internet address: www.epa.gov/hwgenerators/uniform-hazardous-waste-manifest-instructions-sample-form-and-continuation-sheet.

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

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

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

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

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

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

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

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

USGSA. Available from the United States Government Services Administration:

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

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

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

10 CFR 20.2006 (2018)~~(2015)~~ (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20 (2018)~~(2015)~~ (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 (2018)~~(2015)~~ (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 (2018)~~(2015)~~ (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 (2018)~~(2015)~~ (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203 (2017)~~(2015)~~ (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.3 (2017)~~(2015)~~ (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 (2017)~~(2015)~~ (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 (2017)~~(2015)~~ (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) (2017)~~(2015)~~ (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (2017)~~(2015)~~ (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

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

Appendix B to 40 CFR 52.741 (2017)~~(2015)~~ (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 721.984, 721.986, 721.989, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 (2017)~~(2015)~~ (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 721.104, 721.950, 721.964, 721.980, 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (2017)~~(2015)~~ (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Appendix A to 40 CFR 60 (2017)~~(2015)~~ (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

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

Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 721.934, 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

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

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 721.933, 721.934, 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 721.934, 721.935, 721.963, 721.983, 724.934, 724.935, 724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in 35 Ill. Adm. Code 721.933, 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 721.934, 724.934, and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 721.983, 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 721.986, 724.986, and 725.987.

40 CFR 61 ~~(2017)~~(2015) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 721.104, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 (2017)~~(2015)~~ (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Subpart FF of 40 CFR 61 (2017)~~(2015)~~ (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 (2017)~~(2015)~~ (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 721.293, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 (2017)~~(2015)~~ (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 721.984, 724.984, 724.985, 725.985, and 725.986.

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

Subpart EEE of 40 CFR 63 (2017)~~(2015)~~ (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (2017)~~(2015)~~ (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Appendix C to 40 CFR 63 (2017)~~(2015)~~ (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 ~~(2017)-(2015)~~ (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

40 CFR 136.3 (Identification of Test Procedures) ~~(2017)-(2015)~~, referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 ~~(2017)-(2015)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 ~~(2017)-(2015)~~ (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 ~~(2017)-(2015)~~ (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257 (2015) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 721.105.

40 CFR 258 ~~(2017)-(2015)~~ (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) ~~(2017)-(2015)~~ (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151 ~~(2017)-(2015)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 ~~(2017)-(2015)~~ (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53 (2015) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54 (2015) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55 (2015) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56 (2015) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57 (2015) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

Appendix to 40 CFR 262 (2017)~~(2015)~~ (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 (2017)~~(2015)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

40 CFR 264.1311 (2017) (Manifest Transactions Subject to Fees), referenced in Sections 724.171.

40 CFR 264.1312 (2017) (User Fee Calculation Methodology), referenced in Sections 724.171.

40 CFR 264.1313 (2017) (User Fee Revisions), referenced in Sections 724.171.

40 CFR 264.1314 (2017) (How to Make User Fee Payments), referenced in Sections 724.171.

40 CFR 264.1315 (2017) (Sanctions for Delinquent Payments), referenced in Sections 724.171.

40 CFR 264.1316 (2017) (Informal Fee Dispute Resolution), referenced in Sections 724.171.

Appendix I to 40 CFR 264 (2017)~~(2015)~~ (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 (2017)~~(2015)~~ (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 (2017)~~(2015)~~ (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 (2017)~~(2015)~~ (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

Subpart FF of 40 CFR 264 (2017) (Fees for the Electronic Hazardous Waste Manifest Program), referenced in Sections 720.104 and 720.105.

40 CFR 264.1311 (2017) (Manifest Transactions Subject to Fees), referenced in Sections 724.171.

40 CFR 264.1312 (2017) (User Fee Calculation Methodology), referenced in Sections 724.171.

40 CFR 264.1313 (2017) (User Fee Revisions), referenced in Sections 724.171.

40 CFR 264.1314 (2017) (How to Make User Fee Payments), referenced in Sections 724.171.

40 CFR 264.1315 (2017) (Sanctions for Delinquent Payments), referenced in Sections 724.171.

40 CFR 264.1316 (2017) (Informal Fee Dispute Resolution), referenced in Sections 724.171.

Appendix I to 40 CFR 265 (2017)~~(2015)~~ (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (2017)~~(2015)~~ (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 (2017)~~(2015)~~ (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (2017)~~(2015)~~ (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Subpart FF of 40 CFR 265 (2017) (Fees for the Electronic Hazardous Waste Manifest Program), referenced in Sections 720.104 and 720.105.

Appendix IX to 40 CFR 266 (2017)~~(2015)~~ (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

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

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

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

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

40 CFR 267.151 ~~(2017)-(2015)~~ (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 ~~(2017)-(2015)~~ (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 302 ~~(2017)-(2015)~~ (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.293.

40 CFR 711.15(a)(4)(i)(C) ~~(2017)-(2015)~~ (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 761 ~~(2017)-(2015)~~ (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 ~~(2017)-(2015)~~ (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 ~~(2017)-(2015)~~ (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 ~~(2017)-(2015)~~ (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 ~~(2017)-(2015)~~ (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 ~~(2017)-(2014)~~ (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 ~~(2017)-(2014)~~ (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 ~~(2017)-(2014)~~ (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 (2017) ~~(2014)~~ (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 (2017) ~~(2014)~~ (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 (2017) ~~(2014)~~ (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 (2017) ~~(2014)~~ (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

Table to 49 CFR 172.101 (2017) (Hazardous Materials Table), referenced in 35 Ill. 49 CFR 172.304, referenced in 35 Ill. Adm. Code 721.104.

Subpart C of 49 CFR 172 (2017) ~~(2014)~~ (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

Subpart F of 49 CFR 172 (2017) ~~(2014)~~ (Placarding), referenced in 35 Ill. Adm. Code 722.114, 722.115, and 722.133.

49 CFR 173 (2017) ~~(2014)~~ (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 (2017) ~~(2014)~~ (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 (2017) ~~(2014)~~ (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 (2017) ~~(2014)~~ (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 (2017) ~~(2014)~~ (Class 1—Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 (2017) ~~(2014)~~ (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 (2017)~~(2014)~~ (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 (2017)~~(2014)~~ (Class 2, Divisions 2.1, 2.2, and 2.3—Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 (2017)~~(2014)~~ (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 (2017)~~(2014)~~ (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 (2017)~~(2014)~~ (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 (2017)~~(2014)~~ (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177.817 (2017)~~(2014)~~ (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

49 CFR 178 (2017)~~(2014)~~ (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 (2017)~~(2014)~~ (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 (2017)~~(2014)~~ (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 721.986, 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 (2017)~~(2014)~~ (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 (2017)~~(2014)~~ (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 (2017)~~(2014)~~ (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 (2017)~~(2014)~~ (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 (2017)~~(2014)~~ (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 (2017)~~(2014)~~ (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 196 (2017)~~(2014)~~ (Protection of Underground Pipelines from Excavation Activity), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 (2017)~~(2014)~~ (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 (2017)~~(2014)~~ (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014 (2016)~~(2013)~~), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 301, 304, 307, and 402 of the Clean Water Act (33 USC 1311, 1314, 1337, and 1342 (2016)~~(2013)~~), referenced in 35 Ill. Adm. Code 721.293.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j) (2016)~~(2013)~~), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 1004 of the Resource Conservation and Recovery Act (42 USC 6903 (2016)~~(2013)~~), referenced in 35 Ill. Adm. Code 721.931, 721.951, and 721.981, 724.931, 724.981, 725.931, 725.951, and 725.981.

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60140 (2016)~~(2013)~~), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1)) (2015)~~(2012)~~), referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.130 Procedures for Solid Waste Determinations and Non-Waste Determinations

In accordance with the standards and criteria in Sections 720.131 and 720.134 and the procedures in Section 720.133, the Board will determine on a case-by-case basis that the following recycled materials are not solid wastes:

- a) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in Section 721.101(c)(8));
- b) Materials that are reclaimed and then reused within the original production process in which they were generated;
- c) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;
- d) Hazardous secondary materials that are reclaimed in a continuous industrial process; and
- e) Hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate.
- ~~f) Hazardous secondary materials that are transferred for reclamation under 35 Ill. Adm. Code 721.104(a)(24) and are managed at a verified reclamation facility or verified intermediate facility where the management of the hazardous secondary materials is not regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.131 Solid Waste and Verified Facility Determinations

- a) The Board will determine that those materials that are accumulated speculatively without sufficient amounts being recycled are not solid wastes if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. Such a determination is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. This determination will be based on the following criteria:
 - 1) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material or contractual arrangements for recycling);

- 2) The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
 - 3) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
 - 4) The extent to which the material is handled to minimize loss; and
 - 5) Other relevant factors.
- b) The Board will determine that those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated are not solid wastes if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:
- 1) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;
 - 2) The extent to which the material is handled before reclamation to minimize loss;
 - 3) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;
 - 4) The location of the reclamation operation in relation to the production process;
 - 5) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
 - 6) Whether the person that generates the material also reclaims it; and
 - 7) Other relevant factors.
- c) The Board will determine, as provided in Section 720.133, that those hazardous secondary materials that have been partially reclaimed but must be reclaimed further before recovery is completed are not solid wastes if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the determination is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled, as specified in Section 720.143, and on whether all of the following decision criteria are satisfied:

- 1) Whether the degree of partial reclamation the material has undergone is substantial, as demonstrated by using a partial reclamation process other than the process that generated the hazardous secondary material;
 - 2) Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;
 - 3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;
 - 4) Whether there is a market for the partially-reclaimed material, as demonstrated by known customers who are further reclaiming the material (e.g., records of sales or contracts and evidence of subsequent use, such as bills of lading); and
 - 5) Whether the partially-reclaimed material is handled to minimize loss.
- d) ~~Where the management of a hazardous secondary material is not regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727, the Board will grant a verified facility determination, as provided in Section 720.133, from classifying as a solid waste those hazardous secondary materials that are transferred for reclamation under 35 Ill. Adm. Code 721.104(a)(24) and which are managed at a verified reclamation facility or verified intermediate facility. The Board's determination will be based on the following criteria:~~
- 1) ~~The reclamation facility or intermediate facility has demonstrated that the reclamation process for the hazardous secondary materials is legitimate pursuant to Section 720.143;~~
 - 2) ~~The reclamation facility or intermediate facility satisfies the financial assurance condition in 35 Ill. Adm. Code 721.104(a)(24)(F)(vi);~~
 - 3) ~~The reclamation facility or intermediate facility has not been subject to a formal enforcement action in the previous three years and must not be classified as a significant non-complier under RCRA Subtitle C, or the facility has provided credible evidence that the facility will manage the hazardous secondary materials properly. Credible evidence may include a demonstration that the facility has taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials;~~
 - 4) ~~The intermediate or reclamation facility has the equipment and trained personnel needed to safely manage the hazardous secondary material, and the facility meets emergency preparedness and response requirements under Subpart M of 35 Ill. Adm. Code 721;~~

- ~~5) 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, the facility has a contract with an appropriately permitted facility to dispose of the residuals, or the facility has presented credible evidence that the residuals will be managed in a manner that is protective of human health and the environment; and~~
- ~~6) The intermediate or reclamation facility has adequately addressed the potential for risk to proximate populations from unpermitted releases of the hazardous secondary material to the environment (i.e., releases that are not covered by a permit, such as a permit to discharge to water or air), which may include, but are not limited to, potential releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures), and the facility has included consideration of potential cumulative risks from other nearby potential stressors.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.142 Notification Requirement for Hazardous Secondary Materials

- a) A facility that manages hazardous secondary materials which are excluded from regulation under 35 Ill. Adm. Code 721.104(a)(23), (a)(24), or (a)(27) must send a notification to USEPA Region 5. The notification must occur prior to operating under the regulatory provision and before March 1 of every even-numbered calendar year thereafter using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). The notification must include the following information:
- 1) The name, address, and USEPA identification number (if applicable) of the facility;
 - 2) The name and telephone number of a contact person for the facility;
 - 3) The NAICS code of the facility;
- BOARD NOTE: Determined using the “North American Industry Classification System;” incorporated by reference in Section 720.111.
- 4) The regulation under which the facility will manage the hazardous secondary materials;
 - 5) For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with 35 Ill. Adm. Code 721.104(a)(24) or (a)(25), whether the reclaimer or intermediate facility has financial assurance (not

applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);

- 65) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;
 - 76) A list of hazardous secondary materials that the facility will manage according to the regulation (reported as the USEPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);
 - 87) For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;
 - 98) The quantity of each hazardous secondary material to be managed annually; and
 - 109) The certification (included in USEPA Form 8700-12) signed and dated by an authorized representative of the facility.
- b) If a facility that manages hazardous secondary material has submitted a notification, but then subsequently ceases managing hazardous secondary materials in accordance with a regulation listed in subsection (a), the facility owner or operator must notify the Agency within 30 days after the cessation using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). For purposes of this Section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages, or reclaims hazardous secondary materials under the regulation listed in subsection (a), and the facility owner or operator does not expect to manage any amount of hazardous secondary materials for at least one year.

BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification of regulated waste activity.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.143 Legitimate Recycling of Hazardous Secondary Materials

- a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not the subject of legitimate recycling is discarded material and is a solid waste. A determination that an activity is legitimate recycling must address all the requirements of this subsection (a) and must consider the requirements of subsection (b).

- 1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it fulfills one of the following criteria:
 - A) The material contributes valuable ingredients to a product or intermediate;
 - B) The material replaces a catalyst or carrier in the recycling process;
 - C) The material is the source of a valuable constituent recovered in the recycling process;
 - D) The material is recovered or regenerated by the recycling process; or
 - E) The material is used as an effective substitute for a commercial product.

- 2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if either of the following is true:
 - A) The product or intermediate is sold to a third party; or
 - B) The product or intermediate is used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.

- 3) The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and which are not recovered immediately are discarded material.

- ~~4) The product of the recycling process must be comparable to a legitimate product or intermediate as follows:~~
 - ~~A) Where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if both of the following conditions are true:~~

- i) ~~The product of the recycling process does not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 721) that analogous products do not exhibit; and~~
 - ii) ~~The concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products or at levels that meet widely recognized commodity standards and specifications, where the commodity standards and specifications include levels that specifically address those hazardous constituents.~~
- B) ~~Where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if either of the following conditions is true:~~
- i) ~~The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals); or~~
 - ii) ~~The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling).~~
- C) ~~If the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate as provided in subsection (a)(4)(A) or (a)(4)(B), the recycling still may be shown to be legitimate if the person performing the recycling fulfills the following requirements:~~
- i) ~~The person performing the recycling must conduct the necessary assessment and prepare documentation which demonstrates that the recycling is, in fact, still legitimate;~~
 - ii) ~~The assessment and documentation demonstrate that the recycling is legitimate based on lack of exposure from toxics in the product, lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the recycled product does not contain~~

levels of hazardous constituents that pose a significant human health or environmental risk;

iii) ~~The documentation must include a certification statement that the recycling is legitimate, and the assessment and documentation must be maintained on-site for three years after the recycling operation has ceased; and~~

iv) ~~The person performing the recycling must notify USEPA and the Agency of the recycling activity using USEPA Form 8700-12.~~

b) The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity. This subsection (b) corresponds with 40 CFR 260.43(b), which USEPA has removed and marked "reserved." This statement maintains structural consistency with the corresponding federal rules.

1) The product of the recycling process fulfills all of the following criteria:

A) The product must not contain significant concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 35 Ill. Adm. Code 721 that are not found in analogous products;

B) The product must not contain concentrations of hazardous constituents found in Appendix H of 35 Ill. Adm. Code 35 Ill. Adm. Code 721 at levels that are significantly elevated from those found in analogous products, and

C) The product must not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 35 Ill. Adm. Code 721) that analogous products do not exhibit.

2) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this subsection (b) is not met, then this fact may indicate that the material is not legitimately recycled. However, the factor in this subsection (b) does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

~~e) This subsection (e) corresponds with 40 CFR 260.43(e), which USEPA has removed and marked "reserved." This statement maintains structural consistency with the corresponding federal rules.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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

PART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

- Section
- 721.101 Purpose and Scope
- 721.102 Definition of Solid Waste
- 721.103 Definition of Hazardous Waste
- 721.104 Exclusions
- 721.105 Special Requirements for Hazardous Waste Generated by Small Quantity Generators
- 721.106 Requirements for Recyclable Materials
- 721.107 Residues of Hazardous Waste in Empty Containers
- 721.108 PCB Wastes Regulated under TSCA
- 721.109 Requirements for Universal Waste

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

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

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

- Section
- 721.120 General
- 721.121 Characteristic of Ignitability
- 721.122 Characteristic of Corrosivity
- 721.123 Characteristic of Reactivity
- 721.124 Toxicity Characteristic

SUBPART D: LISTS OF HAZARDOUS WASTE

- Section
- 721.130 General
- 721.131 Hazardous Wastes from Nonspecific Sources

- 721.132 Hazardous Waste from Specific Sources
- 721.133 Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof
- 721.135 Wood Preserving Wastes

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section

- 721.138 Exclusion of Comparable Fuel and Syngas Fuel (Repealed)
- 721.139 Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling
- 721.140 Conditional Exclusion for Used, Intact CRTs Exported for Recycling
- 721.141 Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

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

Section

- 721.240 Applicability
- 721.241 Definitions of Terms as Used in This Subpart
- 721.242 Cost Estimate
- 721.243 Financial Assurance Condition
- 721.247 Liability Requirements
- 721.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions
- 721.249 Use of State-Required Mechanisms
- 721.250 State Assumption of Responsibility
- 721.251 Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section

- 721.270 Applicability
- 721.271 Condition of Containers
- 721.272 Compatibility of Hazardous Secondary Materials with Containers
- 721.273 Management of Containers
- 721.275 Secondary Containment
- 721.276 Special Requirements for Ignitable or Reactive Hazardous Secondary Material
- 721.277 Special Requirements for Incompatible Materials
- 721.279 Air Emission Standards

SUBPART J: TANK SYSTEMS

Section

- 721.290 Applicability
- 721.291 Assessment of Existing Tank System's Integrity
- 721.293 Containment and Detection of Releases
- 721.294 General Operating Requirements
- 721.296 Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems

721.297	Termination of Remanufacturing Exclusion
721.298	Special Requirements for Ignitable or Reactive Materials
721.299	Special Requirements for Incompatible Materials
721.300	Air Emission Standards

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

Section	
721.500	Applicability
721.510	Preparedness and Prevention
721.511	Emergency Procedures for Facilities Generating or Accumulating 6,000 kg or Less of Hazardous Secondary Material
721.520	Contingency Planning and Emergency Procedures for Facilities Generating or Accumulating More Than 6,000 kg of Hazardous Secondary Material

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section	
721.930	Applicability
721.931	Definitions
721.932	Standards: Process Vents
721.933	Standards: Closed-Vent Systems and Control Devices
721.934	Test Methods and Procedures
721.935	Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section	
721.950	Applicability
721.951	Definitions
721.952	Standards: Pumps in Light Liquid Service
721.953	Standards: Compressors
721.954	Standards: Pressure Relief Devices in Gas/Vapor Service
721.955	Standards: Sampling Connection Systems
721.956	Standards: Open-Ended Valves or Lines
721.957	Standards: Valves in gas/Vapor Service or in Light Liquid Service
721.958	Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors
721.959	Standards: Delay of Repair
721.960	Standards: Closed-Vent Systems and Control Devices
721.961	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak
721.962	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair
721.963	Test Methods and Procedures
721.964	Recordkeeping Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS
AND CONTAINERS

Section	
721.980	Applicability
721.981	Definitions
721.982	Standards: General
721.983	Material Determination Procedures
721.984	Standards: Tanks
721.986	Standards: Containers
721.987	Standards: Closed-Vent Systems and Control Devices
721.988	Inspection and Monitoring Requirements
721.989	Recordkeeping Requirements
721.APPENDIX A	Representative Sampling Methods
721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)
721.APPENDIX C	Chemical Analysis Test Methods (Repealed)
	721.TABLE A Analytical Characteristics of Organic Chemicals (Repealed)
	721.TABLE B Analytical Characteristics of Inorganic Species (Repealed)
	721.TABLE C Sample Preparation/Sample Introduction Techniques (Repealed)
721.APPENDIX G	Basis for Listing Hazardous Wastes
721.APPENDIX H	Hazardous Constituents
721.APPENDIX I	Wastes Excluded by Administrative Action
	721.TABLE A Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Non-Specific Sources
	721.TABLE B Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Specific Sources
	721.TABLE C Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
	721.TABLE D Wastes Excluded by the Board by Adjusted Standard
721.APPENDIX J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)
721.APPENDIX Y	Table to Section 721.138: Maximum Contaminant Concentration and Minimum Detection Limit Values for Comparable Fuel Specification
721.APPENDIX Z	Table to Section 721.102: Recycled Materials that Are Solid Waste

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998,

effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1607, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11367, effective August 9, 2016; amended in R19-3 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.104 Exclusions

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:
- 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.
 - 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act-~~{415 ILCS 5/12(f)}~~ and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.
 - 3) Irrigation return flows.
 - 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
 - 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
 - 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).
 - 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:

- A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B), so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and
 - v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the

Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: “I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation.” The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency’s determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act [415 ILCS 5/40].

- 10) USEPA Hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar’s sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.
- 11) Nonwastewater splash condenser dross residue from the treatment of USEPA hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum

refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), 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). Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in Subpart D of this Part; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.
- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
 - 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
 - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.

- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) This subsection (a)(16) corresponds with 40 CFR 261.4(a)(16), marked “reserved” by USEPA. This statement maintains structural consistency with the federal regulations.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart ~~D 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, provided that the following is true:
 - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
 - B) The spent material is not accumulated speculatively;
 - C) Except as provided in subsection (a)(17)(D), 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 in writing that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases

of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.

- i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.
- ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have 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 land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

- F) For purposes of subsection (b)(7), mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.
- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, 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 ~~number code~~-D018);
- B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An “associated organic chemical manufacturing facility” is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. “Petrochemical recovered oil” is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).

- B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
- i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F):
 - iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G).
- 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).
 - ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
 - iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.
- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i), and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.
- F) A container used to store excluded secondary material must fulfill the following conditions:

- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
- ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
- iii) It must prevent run-on into the containment system.

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

- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:
 - i) The name of the transporter and date of the shipment;
 - ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
 - iii) The type and quantity of excluded secondary material in each shipment.

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

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

- A) The fertilizers meet the following contaminant limits:

- i) For metal contaminants:

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

Lead	2.8
Mercury	0.3

- ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).
- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.
- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B). Such records must at a minimum include the following:
- i) The dates and times product samples were taken, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons taking the samples;
 - iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).

22) Used CRTs.

- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
 - B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
 - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
 - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).
- 23) Hazardous secondary materials reclaimed under the control of the generator. Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with subsections (a)(23)(A) and (a)(23)(B):
- A) Excluded hazardous secondary materials.
 - i) The hazardous secondary material is generated and reclaimed at the generating facility. (For purposes of this subsection (a)(23)(A)(i), “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.);
 - ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in 35 Ill. Adm. Code 720.110, and if the generator provides one of the following certifications:

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

or

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

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

- iii) The hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies as follows:

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

manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process.”

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

- B) Management of hazardous secondary materials.
- i) The hazardous secondary material is contained, as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded material and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded material and a solid waste;
 - ii) The hazardous secondary material is not speculatively accumulated, as defined in Section 721.101(c)(8);
 - iii) Notice is provided, as required by 35 Ill. Adm. Code 720.142;
 - iv) The hazardous secondary material is not otherwise subject to material-specific management conditions under

subsection (a) when reclaimed, and it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102);

- v) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 35 Ill. Adm. Code 720.143(a) and how the factor in 35 Ill. Adm. Code 720.143(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and
 - vi) The emergency preparedness and response requirements found in Subpart M ~~of this Part~~ are met.
- 24) Hazardous secondary materials transferred for off-site reclamation. Hazardous secondary material that is generated and then transferred to another person a verified reclamation facility 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):
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.101(c)(8).
 - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the hazardous secondary material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the hazardous secondary material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.
 - C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed, and the hazardous secondary material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102).
 - D) 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 as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit that leaks or which otherwise continuously releases hazardous secondary material is discarded material and a solid waste.
- ii) Prior to arranging ~~The hazardous secondary material generator must arrange~~ for transport of hazardous secondary materials to a ~~verified~~-reclamation facility ~~in the United States~~. A “~~verified reclamation facility~~” is a facility ~~that has been granted a verified facility determination pursuant to 35 Ill. Adm. Code 720.131(d), or a reclamation facility where the management of the hazardous secondary material is~~ managed in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727. If the hazardous secondary material will pass through an intermediate facility ~~where, the facility must be a “verified intermediate facility” that has been granted a verified facility determination pursuant to 35 Ill. Adm. Code 720.131(d) or~~ management of the hazardous secondary materials is managed at that facility in a unit that is not subject to a RCRA permit or interim status standards must be regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727, and the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any

intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must affirmatively answer all of the questions in subsection (a)(24)(H) for each reclamation facility and any intermediate facility.

BOARD NOTE: The Board moved the required generator inquiries of 40 CFR 261.4(a)(24)(v)(B)(I) through (a)(24)(v)(B)(5) to subsection (a)(24)(H) to comply with codification requirements.

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

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

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

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

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

- viiv) 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 USDOT shipping papers, or electronic confirmations of receipt).
- viiv) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in Subpart M ~~of this Part~~.

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

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

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

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

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

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

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

- iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An “analogous raw material” is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.
- v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C of this Part, or if the residuals themselves are specifically listed as hazardous waste in Subpart D of this Part, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.
- vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H of this Part.
- ~~vii) The reclaimer and intermediate facility must have been granted a solid waste determination pursuant to 35 Ill. Adm. Code 720.131(d), or have a RCRA Part B permit or be subject to interim status standards that address the management of the hazardous secondary materials; and~~

- G) In addition, 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 the reasonable inquiries required by subsection (a)(24)(E)(ii), the hazardous secondary material generator must affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:
- i) Does the available information indicate that the reclamation process is legitimate pursuant to 35 Ill. Adm. Code 720.143? In answering this question, the hazardous secondary material generator can rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.
 - ii) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to 35 Ill. Adm. Code 720.142, and have they notified the appropriate authorities that the financial assurance condition is satisfied per subsection (a)(24)(F)(vi)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify USEPA or state whether the reclaimer or intermediate facility has financial assurance.
 - iii) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has not been classified as a significant noncomplier with RCRA Subtitle C? In answering this question, the hazardous secondary material generator can rely on the publicly available information

from USEPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has been classified as a significant non-complier with RCRA Subtitle C, does the hazardous secondary material generator have credible evidence that the facility will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can obtain additional information from USEPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

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

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

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

25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) (excepting subsection (a)(24)(H)(ii) for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements:~~This subsection (a)(25) corresponds with 40 CFR 261.4(a)(25), which USEPA removed and marked "reserved." This statement maintains structural consistency with the corresponding federal regulations.~~

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

- i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
- ii) A description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste and the USDOT proper shipping name, hazard class and identification number (UN or NA) for each hazardous secondary material as identified in the hazardous materials table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;
- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;
- iv) The estimated total quantity of hazardous secondary material;
- v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;

- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.));
 - vii) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;
 - viii) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and
 - ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for purposes of this section, the terms “USEPA Acknowledgement of Consent”, “country of import”, and “country of transit” are used as defined in 35 Ill. Adm. Code 722.181 with the exception that the terms in this section refer to hazardous secondary materials, rather than hazardous waste).
- B) The generator must submit notifications must be submitted electronically using USEPA’s Waste Import Export Tracking System (WIETS).
- C) Except for changes to the telephone number in subsection (a)(25)(A)(i) and decreases in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv), when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide USEPA with a written renotification of the change. The shipment must not occur until consent of the country of import to the changes (except for changes to subsection (a)(25)(A)(ix) and in the ports of entry to and departure from countries of transit pursuant to subsections (a)(25)(A)(v)) has been obtained and the hazardous secondary material generator receives from USEPA an USEPA Acknowledgment of Consent reflecting the country of import’s consent to the changes.

- D) Upon request by USEPA, the hazardous secondary material generator shall furnish to USEPA any additional information which a country of import requests in order to respond to a notification.
- E) USEPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when USEPA receives a notification which USEPA determines satisfies the requirements of subsection (a)(25)(A). Where a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A), USEPA may find the notification not complete until any such claim is resolved in accordance with 35 Ill. Adm. Code 720.102.
- F) The export of hazardous secondary material under this subsection (a)(25) is prohibited unless the country of import consents to the intended export. When the country of import consents in writing to the receipt of the hazardous secondary material, USEPA will send an USEPA Acknowledgment of Consent to the hazardous secondary material generator. Where the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA will notify the hazardous secondary material generator in writing. USEPA will also notify the hazardous secondary material generator of any responses from countries of transit.
- G) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to subsection (a)(25)(A) within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, USEPA will send an USEPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.
- H) A copy of the USEPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the USEPA Acknowledgment of Consent.

- D) 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 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 USEPA Acknowledgment of Consent.
- J) Hazardous secondary material generators must keep a copy of each notification of intent to export and each USEPA Acknowledgment of Consent for a period of three years following receipt of the USEPA Acknowledgment of Consent. They may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on USEPA's WIETS, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this section if they can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with USEPA's WIETS for which the hazardous secondary material generator bears no responsibility.
- K) Hazardous secondary material generators must file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using USEPA's WIETS. Such reports must include the following information:
- i) Name, mailing and site address, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary

material was managed as hazardous waste; the USDOT hazard class, incorporated by reference in 35 Ill. Adm. Code 720.111; the name and U.S. USEPA identification number (where applicable) for each transporter used, the total amount of hazardous secondary material shipped and the number of shipments pursuant to each notification; and

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

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

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

- 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes:”. The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

- C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:
 - i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
 - F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.
- 27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that the following conditions are fulfilled:

BOARD NOTE: The North American Industrial Classification System (NAICS) codes used in this subsection (a)(27) are defined in the NAICS Manual, available from the Office of Management and Budget and incorporated by reference in 35 Ill. Adm. Code 720.111.

- A) The hazardous secondary material consists of one or more of the following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl

tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, N,N-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, or methanol.

- B) The hazardous secondary material originated from using one or more of the solvents listed in subsection (a)(27)(A) in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).
- C) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in subsection (a)(27)(A) to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).
- D) After remanufacturing one or more of the solvents listed in subsection (a)(27)(A), the use of the remanufactured solvent must be limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated in 40 CFR 711.15(b)(4)(i)(C) (Reporting Information to EPA), incorporated by reference in 35 Ill. Adm. Code 720.111, including Industrial Function Category Codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents that become part of the mixture);

BOARD NOTE: The Board observes that the citation to Toxic Substances Control Act function categories and use of the word “including” to preface specific example Industrial Function Category Codes does not expand the range of permissible uses beyond the express limitations recited in the first segment of this subsection (a)(27)(D) and subsection (a)(27)(E).

- E) After remanufacturing one or more of the solvents listed in subsection (a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material

from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Category Code U029 (solvents (for cleaning and degreasing)) in 40 CFR 711.15(b)(4)(i)(C), incorporated by reference in 35 Ill. Adm. Code 720.111.

- F) Both the hazardous secondary material generator and the remanufacturer must fulfill the following requirements:
- i) The generator and remanufacturer must notify USEPA Region 5 and the Agency, and update the notification every two years per 35 Ill. Adm. Code 720.142;
 - ii) The generator and remanufacturer must develop and maintain an up-to-date remanufacturing plan that identifies the information enumerated in subsection (a)(27)(G);

BOARD NOTE: The Board moved corresponding 40 CFR 261.4(a)(27)(vi)(B)(I) through (a)(27)(vi)(B)(I) to appear as subsections (a)(27)(G)(i) through (a)(27)(G)(v) to comport with codification requirements.
 - iii) The generator and remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;
 - iv) The generator and remanufacturer must, prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Subparts I and J ~~of this Part~~, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;
 - v) The generator and remanufacturer must, during remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the applicable Clean Air Act regulations of 40 CFR 60, 61 and 63, incorporated by reference in 35 Ill. Adm. Code 720.111; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the

appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage) ~~of this Part~~; and

- vi) The generator and remanufacturer must meet the requirements prohibiting speculative accumulation in Section 721.101(c)(8).
- G) The following information items are required elements for a remanufacturing plan.
- i) The name, address and USEPA ID number of the generators and the remanufacturers;
 - ii) The types and estimated annual volumes of spent solvents to be remanufactured;
 - iii) The processes and industry sectors that generate the spent solvents;
 - iv) The specific uses and industry sectors for the remanufactured solvents; and
 - v) A certification from the remanufacturer stating as follows:

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

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

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

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

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
 - A) The growing and harvesting of agricultural crops, or
 - B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Coal and fossil fuel combustion waste.
 - A) 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.
 - B) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in subsection (b)(4)(A), except as provided by 35 Ill. Adm. Code 726.112 for facilities that burn or process hazardous waste:
 - i) Coal pile run-off. For purposes of subsection (b)(4), coal pile run-off means any precipitation that drains off coal piles.
 - ii) Boiler cleaning solutions. For purposes of this subsection (b)(4), boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and waterside of the boiler.
 - iii) Boiler blowdown. For purposes of this subsection (b)(4), boiler blowdown means water purged from boilers used to generate steam.
 - iv) Process water treatment and demineralizer regeneration wastes. For purposes of this subsection (b)(4), process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.
 - v) Cooling tower blowdown. For purposes of this subsection (b)(4), cooling tower blowdown means water purged from a closed cycle cooling system. Closed cycle cooling

systems include cooling towers, cooling ponds, or spray canals.

- vi) Air heater and precipitator washes. For purposes of this subsection (b)(4), air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.
 - vii) Effluents from floor and yard drains and sumps. For purposes of this subsection (b)(4), effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.
 - viii) Wastewater treatment sludges. For purposes of this subsection (b)(4), wastewater treatment sludges refers to sludges generated from the treatment of wastewaters specified in subsections (b)(4)(B)(i) through (b)(4)(B)(vi).
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
- 6) Chromium wastes.
- A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B to this Part) because chromium is present or which are listed in Subpart D of this Part due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:
 - i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
 - ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - iii) The waste is typically and frequently managed in non-oxidizing environments.

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

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

- xi) Process wastewater from hydrofluoric acid production;
 - xii) Air pollution control dust or sludge from iron blast furnaces;
 - xiii) Iron blast furnace slag;
 - xiv) Treated residue from roasting and leaching of chrome ore;
 - xv) Process wastewater from primary magnesium processing by the anhydrous process;
 - xvi) Process wastewater from phosphoric acid production;
 - xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for USEPA hazardous waste ~~numbers 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 (USEPA hazardous waste numbers codes D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.
- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D ~~of this Part~~, if these oil filters have been gravity hot-drained using one of the following methods:
 - A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;
 - C) Dismantling and hot-draining; or
 - D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
 - A) The following conditions must be fulfilled:
 - i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

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

- ii) The solid wastes described in subsection (b)(15)(A)(i) 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, K178, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.
- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked “reserved.” This statement maintains structural parity with USEPA regulations.
 - 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
 - 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not

hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:

- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes:". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
- C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
 - i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180 day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:

- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or
 - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved 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), a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:

- A) The sample is being transported to a laboratory for the purpose of testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
 - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
- 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B), 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).
- e) Treatability study samples.

- 1) Except as is provided in subsection (e)(2), a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of ~~RCRA (42 USC 6930) 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) 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) 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), 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) in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4), for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B), subject to the limitations of subsection (e)(3)(C):
- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit

undergoing testing (particularly in relation to scale-up considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.

- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after 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) are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F). The generator or sample collector must apply to the Agency and provide in writing the following information:
- i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
 - iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

- v) Such other information as the Agency determines is necessary.
- 4) 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 Section-3010 of RCRA the Resource Conservation and Recovery Act (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
 - 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
 - 3) No more than a total of 10,000 kg of “as received” media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other “as received” hazardous waste is subject to initiation of treatment in all treatability studies in any single day. “As received” waste refers to the waste as received in the shipment from the generator or sample collector.
 - 4) The quantity of “as received” hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to “as received” hazardous waste.
 - 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the

generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
 - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of “as received” waste in storage each day;
 - E) The date the treatment study was initiated and the amount of “as received” waste introduced to treatment each day;
 - F) The date the treatability study was concluded;
 - G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
- 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
 - A) The name, address, and USEPA identification number of the facility conducting the treatability studies;

- B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e).
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:
- “Dredged material” has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- “Permit” means any of the following:
- A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control Act (33 USC 1344);
 - A permit issued by the Army Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413);
 - or
- In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

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

- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 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 may be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications.
 - A) Any generator of a carbon dioxide stream, 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 Parts 190 through 199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.).”

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

“I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the UIC Class VI permitted facility, and that 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 after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility’s publicly-available website (if such website exists) as a public notification with the title of “Carbon Dioxide Stream Certification” at the time the exclusion is claimed.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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

PART 722
STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section	
722.110	Purpose, Scope, and Applicability
722.111	Hazardous Waste Determination
722.112	USEPA Identification Numbers
722.113	Electronic Reporting

SUBPART B: MANIFEST REQUIREMENTS APPLICABLE TO SMALL
AND LARGE QUANTITY GENERATORS

Section	
722.120	General Requirements
722.121	Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests
722.122	Number of Copies
722.123	Use of the Manifest
722.124	Use of the Electronic Manifest
722.125	Electronic Manifest Signatures
722.127	Waste Minimization Certification

SUBPART C: PRE-TRANSPORT REQUIREMENTS APPLICABLE TO
SMALL AND LARGE QUANTITY GENERATORS

Section	
722.130	Packaging
722.131	Labeling
722.132	Marking
722.133	Placarding
722.134	Accumulation Time

SUBPART D: RECORDKEEPING AND REPORTING REQUIREMENTS
APPLICABLE TO SMALL AND LARGE QUANTITY GENERATORS

Section	
722.140	Recordkeeping
722.141	Annual Reporting
722.142	Exception Reporting
722.143	Additional Reporting
722.144	Special Requirements for Generators of between 100 and 1,000 kilograms per month

SUBPART G: FARMERS

Section	
722.170	Farmers

SUBPART H: TRANS-BOUNDARY SHIPMENTS OF HAZARDOUS WASTE
FOR RECOVERY OR DISPOSAL

Section	
722.180	Applicability
722.181	Definitions
722.182	General Conditions
722.183	Notification and Consent
722.184	Movement Document
722.185	Contracts
722.186	Provisions Relating to Recognized Traders
722.187	Reporting and Recordkeeping
722.189	OECD Waste Lists

SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS
WASTE DETERMINATION AND ACCUMULATION OF UNWANTED
MATERIAL FOR LABORATORIES OWNED BY ELIGIBLE ACADEMIC
ENTITIES

Section	
722.300	Definitions
722.301	Applicability
722.302	Opting into the Subpart K Requirements
722.303	Notice of Election into the Subpart K Requirements
722.304	Notice of Withdrawal from the Subpart K Requirements
722.305	Summary of the Requirements of this Subpart K
722.306	Container Standards in the Laboratory
722.307	Personnel Training
722.308	Removing Unwanted Material from the Laboratory
722.309	Hazardous Waste Determination and Removal of Unwanted Material from the Laboratory
722.310	Hazardous Waste Determination in the Laboratory
722.311	Hazardous Waste Determination at an On-Site Central Accumulation Area
722.312	Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal Facility
722.313	Laboratory Clean-Outs
722.314	Laboratory Management Plan
722.315	Unwanted Material That Is Not Solid Waste or Hazardous Waste
722.316	Non-Laboratory Hazardous Waste Generated at an Eligible Academic Entity

722.APPENDIX A Hazardous Waste Manifest (Repealed)

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

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. 17763, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1700, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11717, effective August 9, 2016; recodified at 42 Ill. Reg. _____; amended in R19-3 at 42 Ill. Reg. _____, effective _____.

**SUBPART B: MANIFEST REQUIREMENTS APPLICABLE TO SMALL
AND LARGE QUANTITY GENERATORS**

Section 722.120 General Requirements

- a) Manifest form required.
 - 1) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions included in the ~~appendix to 40 CFR 262~~ (Uniform Hazardous Waste

Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- 2) This subsection (a)(2) corresponds with 40 CFR 262.20(a)(2), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.
- 3) E-Manifest. In lieu of using the manifest form specified in subsection (a)(1) ~~of this Section~~, a person required to prepare a manifest under subsection (a)(1) ~~of this Section~~ may prepare and use an e-Manifest, provided that the person complies with the following requirements:
 - A) Section 722.124 for use of e-Manifests; and
 - B) 40 CFR 3.10, incorporated by reference in 35 Ill. Adm. Code 720.111, for the reporting of electronic documents to USEPA.
- b) A generator must designate on the manifest one receiving facility that is permitted to handle the waste described on the manifest.
- c) A generator may also designate on the manifest one alternate receiving facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
- d) If the transporter is unable to deliver the hazardous waste to the designated receiving facility or the alternate facility, the generator must either designate another receiving facility or instruct the transporter to return the waste.
- e) The requirements of this Subpart B do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1,000 kg in a calendar month where the following conditions are fulfilled:
 - 1) The waste is reclaimed under a contractual agreement that specifies the type of waste and frequency of shipments;
 - 2) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated by the reclaimer of the waste; and
 - 3) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.
- f) The requirements of this Subpart B and Section 722.132(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along

the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 35 Ill. Adm. Code 723.110(a), the generator or transporter must comply with the requirements for transporters set forth in 35 Ill. Adm. Code 723.130 and 723.131 in the event of a discharge of hazardous waste on a public or private right-of-way.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 722.121 Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests

- a) USEPA approval of manifest.
 - 1) A registrant may not print the manifest or have the manifest printed for use or distribution, unless it has received approval from the USEPA Director of the Office of Resource Conservation and Recovery to do so pursuant to 40 CFR 262.21(c) and (e), as described in subsections (c) and (e) ~~of this Section~~.
 - 2) The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of 40 CFR 262.21, as described in this Section. The registrant is responsible for assigning manifest tracking numbers to its manifests.
- b) A registrant must submit an initial application to the USEPA Director of the Office of Resource Conservation and Recovery that contains the following information:
 - 1) The name and mailing address of registrant;
 - 2) The name, telephone number, and email address of contact person;
 - 3) A brief description of registrant's government or business activity;
 - 4) The USEPA identification number of the registrant, if applicable;
 - 5) A description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including the following:
 - A) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in-house (i.e., using its own printing establishments) or through a separate (i.e., unaffiliated) printing company. If the registrant intends to use a separate printing company to print the

manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company;

- B) A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of 40 CFR 262.21, as described in this Section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be preprinted on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time; and
 - C) An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase);
- 6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest;
 - 7) Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest; and
 - 8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the

procedures of its approved application and the requirements of 40 CFR 262.21, as described in this Section and that it will notify the Agency and the USEPA Director of the Office of Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.

- c) USEPA will review the application submitted under subsection (b) ~~of this Section~~ and either approve it or request additional information or modification before approving it.
- d) Submission of document samples.
 - 1) Upon USEPA approval of the application pursuant to 40 CFR 262.21(c), as described in subsection (c) ~~of this Section~~, USEPA will provide the registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in 40 CFR 262.21(d)(3), as described in subsection (d)(3) ~~of this Section~~. The registrant's samples must meet all of the specifications in 40 CFR 262.21(f), as described in subsection (f) ~~of this Section~~, and be printed by the company that will print the manifest as identified in the application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (c) ~~of this Section~~.
 - 2) The registrant must submit a description of the manifest samples as follows:
 - A) The paper type (i.e., manufacturer and grade of the manifest paper);
 - B) The paper weight of each copy;
 - C) The ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and
 - D) The method of binding the copies.
 - 3) The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.
- e) USEPA will evaluate the forms and either approve the registrant to print them as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant

cannot use or distribute its forms until USEPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (e) ~~of this Section~~ and the manifest specifications in 40 CFR 262.21(f), as described in subsection (f) ~~of this Section~~. It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions and binding method of its approved forms.

- f) Paper manifests and continuation sheets must be printed according to the following specifications:
- 1) The manifest and continuation sheet must be printed with the exact format and appearance as USEPA Forms 8700-22 and 8700-22A, respectively. However, information required to complete the manifest may be preprinted on the manifest form.
 - 2) A unique manifest tracking number assigned in accordance with a numbering system approved by USEPA must be pre-printed in Item 4 of the manifest. The tracking number must consist of a unique three-letter suffix following nine digits.
 - 3) The manifest and continuation sheet must be printed on 8½ × 11-inch white paper, excluding common stubs (*e.g.*, top- or side-bound stubs). The paper must be durable enough to withstand normal use.
 - 4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, or faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (*e.g.*, white text against black background in text box or black text against grey background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.
 - 5) The manifest and continuation sheet must be printed as five-copy ~~six-copy~~ forms. Copy-to-copy registration must be exact within 1/32 inch. Handwritten and typed impressions on the form must be legible on all five ~~six~~ copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.
 - 6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:
 - A) Page 1 (top copy): “Designated facility to EPA’s e-Manifest system ~~destination State (if required)~~.”

- B) Page 2: “Designated facility to generator ~~State (if required).~~”
 - C) Page 3: “Designated facility copy to generator.”
 - D) Page 4: “Transporter ~~Designated facility’s copy.~~”
 - E) Page 5 (bottom copy): “Generator’s initial ~~Transporter’s copy.~~”
 - F) ~~Page 6 (bottom copy): “Generator’s initial copy.”~~
- 7) The instructions for revision 12-17 of the manifest form (USEPA Form 8700-22) and the manifest continuation sheet (USEPA Form 8700-22A), must be printed in accordance with the content that is currently approved under OMB Control Number 2050-0039 and published to the e-Manifest program’s website, incorporated by reference in 35 Ill. Adm. Code 720.111(b). The instructions in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b), must appear legibly on the back of the copies of the manifest and continuation sheet as provided in 40 CFR 262.21(f), as described in this subsection (f). The instructions must not be visible through the front of the copies when photocopied or faxed.
- A) Manifest Form 8700-22.
 - i) The “Instructions for Generators” on Copy 5-6;
 - ii) The “Instructions for International Shipment Block” and “Instructions for Transporters” on Copy 4-5; and
 - iii) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 3-4.
 - B) Manifest Form 8700-22A.
 - i) The “Instructions for Generators” on Copy 5-6;
 - ii) The “Instructions for Transporters” on Copy 4-5; and
 - iii) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 3-4.
- 8) The designated facility copy of each manifest and continuation sheet must include in the bottom margin the following warning in prominent font: “If you received this manifest, you have responsibilities under the e-Manifest Act. See instructions on reverse side.”

g) Use of approved manifests.

- 1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from USEPA to print the manifest pursuant to 40 CFR 262.21(c) and (e), as described in subsections (c) and (e) ~~of this Section~~. A registered source may be any of the following:
 - A) A state agency;
 - B) A commercial printer;
 - C) A hazardous waste generator, transporter, or treatment, storage, or disposal facility; or
 - D) A hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.

BOARD NOTE: USEPA maintains a listing of registered sources at <https://www.epa.gov/hwgenerators/approved-registered-printers-epas-manifest-registry>.

- 2) The waste generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. The generator must also determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

h) Manifest revisions.

- 1) If an approved registrant would like to update any of the information provided in its application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (c) ~~of this Section~~ (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the USEPA Director of the Office of Resource Conservation and Recovery, along with an indication or explanation of the update, as soon as practicable after the change occurs. The USEPA will either approve or deny the revision. If USEPA denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.

- 2) If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the USEPA Director of the Office of Resource Conservation and Recovery, along with the reason for requesting it. USEPA will either approve the suffix or deny the suffix and provide an explanation why it is not acceptable.
- 3) If a registrant would like to change the paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval by USEPA pursuant to 40 CFR 262.21(e), as described in this subsection (e) ~~of this Section~~, then the registrant must submit three samples of the revised form for USEPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. USEPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its revised forms until USEPA approves them.
 - i) If, subsequent to its approval by USEPA pursuant to 40 CFR 262.21(e), as described in subsection (e) ~~of this Section~~, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by USEPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. USEPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until USEPA approves them.
 - j) USEPA may exempt a registrant from the requirement to submit form samples pursuant to 40 CFR 262.21(d) or (h)(3), as described in subsection (d) or (h)(3) ~~of this Section~~, if USEPA is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions, and binding method of the form samples approved for some other registrant). A registrant may request an exemption from USEPA by indicating why an exemption is warranted.
 - k) An approved registrant must notify USEPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.
 - l) If, subsequent to approval of a registrant by USEPA pursuant to 40 CFR 262.21(e), as described in subsection (e) ~~of this Section~~, USEPA becomes aware

that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory, USEPA will contact the registrant and require modifications to the form.

- m) Effects of non-compliance.
 - 1) USEPA may suspend and, if necessary, revoke printing privileges if we find that the registrant has done either of the following:
 - A) The registrant has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or
 - B) The registrant exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.
 - 2) USEPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, USEPA will send a second letter notifying the registrant that USEPA has suspended or revoked its printing privileges. An approved registrant must provide information on its printing activities to the Agency and USEPA if requested.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 722.124 Use of the Electronic Manifest

- a) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, and transmitted in accordance with Section 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
 - 1) Any requirement in 35 Ill. Adm. Code 721 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 721 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an e-Manifest is transmitted to the other person by submission to the e-Manifest System.

- 3) Any requirement in any provision of 35 Ill. Adm. Code 721 through 728 for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed e-Manifest in the generator's account on the national e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized Agency inspector.
- 4) No generator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the generator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the generator bears no responsibility.

BOARD NOTE: The Board has rendered the language "and requirement in these regulations" in corresponding 40 CFR 722.124(a) and (a)(1) through (a)(3) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a). The Board intends that use of the e-Manifest System have the same effect in Illinois as it would where the federal requirements directly apply.

- b) A generator may participate in the e-Manifest System either by accessing the e-Manifest System from its own electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.
- c) Restriction on use of e-Manifests. A generator may use ~~prepare~~ an e-Manifest for the tracking of ~~hazardous~~ waste shipments involving any ~~RCRA~~ hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest, except that a generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically. ~~e-Manifest System.~~
- d) Requirement for one printed copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a generator originating an e-Manifest must also provide the initial transporter with one printed copy of the e-Manifest.
- e) Special procedures when e-Manifest is unavailable. If a generator has prepared an e-Manifest for a hazardous waste shipment, but the e-Manifest System becomes unavailable for any reason prior to the time that the initial transporter

has signed electronically to acknowledge the receipt of the hazardous waste from the generator, the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (USEPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions ~~referenced in Appendix A to this Part,~~ and use these paper forms from this point forward in accordance with the requirements of Section 722.123.

- f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an e-Manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the generator must also sign with an ink signature the generator or offeror certification on the printed copy of the manifest provided under subsection (d) ~~of this Section.~~
- g) This subsection (g) corresponds with 40 CFR 262.24(g), which USEPA has removed and marked “reserved”. This statement maintains consistency with the corresponding federal rules. ~~Imposition of user fee. A generator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination of each e-Manifest. USEPA shall maintain and update from time to time the current schedule of e-Manifest user fees, which shall be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System.~~

~~BOARD NOTE: USEPA stated in corresponding 40 CFR 262.24(g) that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

- h) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A generator may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(l), which applies to corrections made to either paper or electronic manifest records.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 722. Appendix A Hazardous Waste Manifest (Repealed)

~~The Agency must prepare manifest forms based on the appendix to federal 40 CFR 262, incorporated by reference in 35 Ill. Adm. Code 720.111(b).~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

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

PART 723
 STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS
 WASTE

SUBPART A: GENERAL

Section	Scope
723.110	Scope
723.111	USEPA Identification Number
723.112	Transfer Facility Requirements
723.113	Electronic Reporting

SUBPART B: COMPLIANCE WITH THE MANIFEST SYSTEM AND
 RECORDKEEPING

Section	Scope
723.120	The Manifest System
723.121	Compliance with the Manifest
723.122	Recordkeeping
723.125	Electronic Manifest Signatures

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section	Scope
723.130	Immediate Action
723.131	Discharge Cleanup

AUTHORITY: Implementing Section 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 R84-9 at 9 Ill. Reg. 11961, effective July 24, 1985; amended in R86-19 at 10 Ill. Reg. 20718, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11969, effective July 14, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 17959, effective October 14, 2011; amended in R15-1 at 39 Ill. Reg. 1711, effective January 12, 2015; amended in R19-3 at 42 Ill. Reg. _____, effective _____.

SUBPART B: COMPLIANCE WITH THE MANIFEST SYSTEM AND
RECORDKEEPING

Section 723.120 The Manifest System

- a) No acceptance without a manifest.
 - 1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-22A) signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, or is provided with an e-Manifest that is obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3) and signed with a valid and enforceable electronic signature as described in 35 Ill. Adm. Code 722.125.
 - 2) Exports.
 - A) In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept such waste from a primary exporter or other person if the transporter knows that the shipment does not conform to the USEPA Acknowledgement of Consent; and unless, in addition to a manifest signed by the generator in accordance with this Section, the transporter must also be provided with a USEPA Acknowledgement of Consent that, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).
 - B) For exports of hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.
 - 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.
 - 4) Use of e-Manifest—legal equivalence to paper forms for participating transporters. E-Manifests that are obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

- A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
- B) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
- C) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that, to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a hazardous waste transporter must carry one printed copy of the e-Manifest on the transport vehicle.
- D) Any requirement in 35 Ill. Adm. Code 720 through 728 for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an e-Manifest in the transporter's account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector.
- E) No transporter may be held liable for the inability to produce an e-Manifest for inspection under this Section if that transporter can demonstrate that the inability to produce the e-Manifest is exclusively due to a technical difficulty with the USEPA e-Manifest System for which the transporter bears no responsibility.

BOARD NOTE: The Board has rendered the language "any requirement in these regulations" in corresponding 40 CFR 723.20(a)(4)(A) through (a)(4)(D) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a)(4).

- 5) A transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter's own electronic equipment, or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.

- 6) Special procedures when e-Manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, then the following requirements apply:
- A) The transporter in possession of the hazardous waste when the e-Manifest becomes unavailable must reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to subsection (a)(4)(C)(i) ~~of this Section~~, or obtain and complete another paper manifest for this purpose. The transporter must reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.
 - B) On each printed copy, the transporter must include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the e-Manifest System, must include (if not pre-printed on the replacement manifest) the manifest tracking number of the e-Manifest that is replaced by the paper manifest, and must also include a brief explanation why the e-Manifest was not available for completing the tracking of the shipment electronically.
 - C) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.
 - D) From the point at which the e-Manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies must be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.
- 7) Special procedures for electronic signature methods undergoing tests. If a transporter using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter must sign the e-Manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with subsection

~~(a)(4)(C)(i) of this Section.~~ This printed copy bearing the generator's and transporter's ink signatures must also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy must be delivered to the designated facility with the waste materials.

8) This subsection (g) corresponds with 40 CFR 263.20(a)(8), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules.~~Imposition of user fee for e-Manifest use. A transporter that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. USEPA has stated that it will maintain and update from time to time the current schedule of e-Manifest user fees, which must be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has stated that it will publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

9) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A transporter may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(l), which applies to corrections made to either paper or electronic manifest records.

- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.
- d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
 - 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;

- 2) It must retain one copy of the manifest in accordance with Section 723.122; and
 - 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.
- e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
- 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;
 - 2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste;
 - 3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;
 - 4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
 - 5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.
- f) For shipments involving rail transportation, the following requirements apply instead of subsections (c), (d), and (e), which do not apply:
- 1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:
 - A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;
 - B) It must return a signed copy of the manifest to the non-rail transporter;
 - C) It must forward at least three copies of the manifest to the following entities:
 - i) The next non-rail transporter, if any;

- ii) The designated facility, if the shipment is delivered to that facility by rail; or
 - iii) The last rail transporter designated to handle the waste in the United States;
 - D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.
- 2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.
- BOARD NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.
- 3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:
- A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.
- 4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:
- A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and
 - B) It must retain a copy of the manifest in accordance with Section 723.122.
- 5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.
- g) Transporters that transport hazardous waste out of the United States must do the following:

- 1) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;
 - 2) Retain one copy in accordance with Section 723.122(d);
 - 3) Return a signed copy of the manifest to the generator; and
 - 4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.
- h) A transporter transporting hazardous waste from a generator that generates greater than 100 ~~kg (220 lbs) kilograms~~ but less than 1,000 ~~kg (2,200 lbs) kilograms~~ of hazardous waste in a calendar month need not comply with this Section or Section 723.122 provided that:
- 1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);
 - 2) The transporter records, on a log or shipping paper, the following information for each shipment:
 - A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.112) of the generator of the waste;
 - B) The quantity of waste accepted;
 - C) All shipping information required by the United States Department of Transportation;
 - D) The date the waste is accepted; and
 - 3) The transporter carries this record when transporting waste to the reclamation facility; and
 - 4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 723.121 Compliance with the Manifest

- a) Except as provided in subsection (b), the ~~The~~ transporter must deliver the entire quantity of hazardous waste which it ~~he~~ has accepted from a generator or a transporter to:
 - 1) The designated facility listed on the manifest; or

- 2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
 - 3) The next designated transporter; or
 - 4) The place outside the United States designated by the generator.
- b) Non-Delivery of The Hazardous Waste.~~Non-delivery of the hazardous waste.~~
- 1) Emergency Condition. If the hazardous waste cannot be delivered in accordance with subsection (a)(1), (a)(2), or (a)(4) ~~(a) of this Section~~ because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further ~~instructions~~ directions and must revise the manifest according to the generator's instructions.
 - 2) Transporters Without Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if the conditions of either subsections (b)(2)(A) and (b)(2)(C) or subsections (b)(2)(B) and (b)(2)(C) are true:
 - A) The hazardous waste is not delivered in accordance with subsection (a)(3) because of an emergency condition; or
 - B) The current transporter proposes to change the transporters designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and
 - C) The generator authorizes the revision.
 - 3) Transporters with Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporters designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that all of the following conditions are true:

- A) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;
 - B) The transporter enters in Item 14 of each manifest for which such a change is made, the following statement of its generator-agency authority: “Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator’s behalf”; and
 - C) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.
- 4) Generator Liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under subsection (b)(3) does not affect the generator’s liability or responsibility for complying with any applicable requirement under 35 Ill. Adm. Code, or grant any additional authority to the transporter to act on behalf of the generator.
- c2) If hazardous waste is rejected by the designated facility while the transporter is on the premises of the designated facility, then the transporter must obtain the following, as appropriate:
- 1A) For a partial load rejection or for regulated quantities of container residues: a copy of the original manifest that includes the facility’s date and signature, the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with Section 723.122 and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).
 - 2B) For a full load rejection that will be taken back by the transporter: a copy of the original manifest that includes the rejecting facility’s signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and USEPA identification number for the alternate facility or generator to

whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with Section 723.122, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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

PART 724
 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
 TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Section	
724.101	Purpose, Scope, and Applicability
724.103	Relationship to Interim Status Standards
724.104	Electronic Reporting

SUBPART B: GENERAL FACILITY STANDARDS

Section	
724.110	Applicability
724.111	USEPA Identification Number
724.112	Required Notices
724.113	General Waste Analysis
724.114	Security
724.115	General Inspection Requirements
724.116	Personnel Training
724.117	General Requirements for Ignitable, Reactive, or Incompatible Wastes
724.118	Location Standards
724.119	Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section	
724.130	Applicability
724.131	Design and Operation of Facility
724.132	Required Equipment
724.133	Testing and Maintenance of Equipment
724.134	Access to Communications or Alarm System

- 724.135 Required Aisle Space
- 724.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

- 724.150 Applicability
- 724.151 Purpose and Implementation of Contingency Plan
- 724.152 Content of Contingency Plan
- 724.153 Copies of Contingency Plan
- 724.154 Amendment of Contingency Plan
- 724.155 Emergency Coordinator
- 724.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section

- 724.170 Applicability
- 724.171 Use of Manifest System
- 724.172 Manifest Discrepancies
- 724.173 Operating Record
- 724.174 Availability, Retention, and Disposition of Records
- 724.175 Annual Facility Activities Report
- 724.176 Unmanifested Waste Report
- 724.177 Additional Reports

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section

- 724.190 Applicability
- 724.191 Required Programs
- 724.192 Groundwater Protection Standard
- 724.193 Hazardous Constituents
- 724.194 Concentration Limits
- 724.195 Point of Compliance
- 724.196 Compliance Period
- 724.197 General Groundwater Monitoring Requirements
- 724.198 Detection Monitoring Program
- 724.199 Compliance Monitoring Program
- 724.200 Corrective Action Program
- 724.201 Corrective Action for Solid Waste Management Units

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section

- 724.210 Applicability
- 724.211 Closure Performance Standard
- 724.212 Closure Plan; Amendment of Plan
- 724.213 Closure; Time Allowed For Closure

724.214	Disposal or Decontamination of Equipment, Structures, and Soils
724.215	Certification of Closure
724.216	Survey Plat
724.217	Post-Closure Care and Use of Property
724.218	Post-Closure Care Plan; Amendment of Plan
724.219	Post-Closure Notices
724.220	Certification of Completion of Post-Closure Care

SUBPART H: FINANCIAL REQUIREMENTS

Section	
724.240	Applicability
724.241	Definitions of Terms as Used in This Subpart
724.242	Cost Estimate for Closure
724.243	Financial Assurance for Closure
724.244	Cost Estimate for Post-Closure Care
724.245	Financial Assurance for Post-Closure Care
724.246	Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
724.247	Liability Requirements
724.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
724.251	Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section	
724.270	Applicability
724.271	Condition of Containers
724.272	Compatibility of Waste with Container
724.273	Management of Containers
724.274	Inspections
724.275	Containment
724.276	Special Requirements for Ignitable or Reactive Waste
724.277	Special Requirements for Incompatible Wastes
724.278	Closure
724.279	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
724.290	Applicability
724.291	Assessment of Existing Tank System Integrity
724.292	Design and Installation of New Tank Systems or Components
724.293	Containment and Detection of Releases
724.294	General Operating Requirements
724.295	Inspections
724.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems

724.297	Closure and Post-Closure Care
724.298	Special Requirements for Ignitable or Reactive Waste
724.299	Special Requirements for Incompatible Wastes
724.300	Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section	
724.320	Applicability
724.321	Design and Operating Requirements
724.322	Action Leakage Rate
724.323	Response Actions
724.326	Monitoring and Inspection
724.327	Emergency Repairs; Contingency Plans
724.328	Closure and Post-Closure Care
724.329	Special Requirements for Ignitable or Reactive Waste
724.330	Special Requirements for Incompatible Wastes
724.331	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027
724.332	Air Emission Standards

SUBPART L: WASTE PILES

Section	
724.350	Applicability
724.351	Design and Operating Requirements
724.352	Action Leakage Rate
724.353	Response Action Plan
724.354	Monitoring and Inspection
724.356	Special Requirements for Ignitable or Reactive Waste
724.357	Special Requirements for Incompatible Wastes
724.358	Closure and Post-Closure Care
724.359	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART M: LAND TREATMENT

Section	
724.370	Applicability
724.371	Treatment Program
724.372	Treatment Demonstration
724.373	Design and Operating Requirements
724.376	Food-Chain Crops
724.378	Unsaturated Zone Monitoring
724.379	Recordkeeping
724.380	Closure and Post-Closure Care
724.381	Special Requirements for Ignitable or Reactive Waste
724.382	Special Requirements for Incompatible Wastes

724.383 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART N: LANDFILLS

Section

724.400 Applicability
 724.401 Design and Operating Requirements
 724.402 Action Leakage Rate
 724.403 Monitoring and Inspection
 724.404 Response Actions
 724.409 Surveying and Recordkeeping
 724.410 Closure and Post-Closure Care
 724.412 Special Requirements for Ignitable or Reactive Waste
 724.413 Special Requirements for Incompatible Wastes
 724.414 Special Requirements for Bulk and Containerized Liquids
 724.415 Special Requirements for Containers
 724.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
 724.417 Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027

SUBPART O: INCINERATORS

Section

724.440 Applicability
 724.441 Waste Analysis
 724.442 Principal Organic Hazardous Constituents (POHCs)
 724.443 Performance Standards
 724.444 Hazardous Waste Incinerator Permits
 724.445 Operating Requirements
 724.447 Monitoring and Inspections
 724.451 Closure

SUBPART S: SPECIAL PROVISIONS FOR CLEANUP

Section

724.650 Applicability of Corrective Action Management Unit Regulations
 724.651 Grandfathered Corrective Action Management Units
 724.652 Corrective Action Management Units
 724.653 Temporary Units
 724.654 Staging Piles
 724.655 Disposal of CAMU-Eligible Wastes in Permitted Hazardous Waste Landfills

SUBPART W: DRIP PADS

Section

724.670 Applicability
 724.671 Assessment of Existing Drip Pad Integrity

724.672	Design and Installation of New Drip Pads
724.673	Design and Operating Requirements
724.674	Inspections
724.675	Closure

SUBPART X: MISCELLANEOUS UNITS

Section	
724.700	Applicability
724.701	Environmental Performance Standards
724.702	Monitoring, Analysis, Inspection, Response, Reporting, and Corrective Action
724.703	Post-Closure Care

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section	
724.930	Applicability
724.931	Definitions
724.932	Standards: Process Vents
724.933	Standards: Closed-Vent Systems and Control Devices
724.934	Test Methods and Procedures
724.935	Recordkeeping Requirements
724.936	Reporting Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section	
724.950	Applicability
724.951	Definitions
724.952	Standards: Pumps in Light Liquid Service
724.953	Standards: Compressors
724.954	Standards: Pressure Relief Devices in Gas/Vapor Service
724.955	Standards: Sampling Connecting Systems
724.956	Standards: Open-ended Valves or Lines
724.957	Standards: Valves in Gas/Vapor or Light Liquid Service
724.958	Standards: Pumps, Valves, Pressure Relief Devices, and Other Connectors
724.959	Standards: Delay of Repair
724.960	Standards: Closed-Vent Systems and Control Devices
724.961	Alternative Percentage Standard for Valves
724.962	Skip Period Alternative for Valves
724.963	Test Methods and Procedures
724.964	Recordkeeping Requirements
724.965	Reporting Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS

Section	
724.980	Applicability

724.981	Definitions
724.982	Standards: General
724.983	Waste Determination Procedures
724.984	Standards: Tanks
724.985	Standards: Surface Impoundments
724.986	Standards: Containers
724.987	Standards: Closed-Vent Systems and Control Devices
724.988	Inspection and Monitoring Requirements
724.989	Recordkeeping Requirements
724.990	Reporting Requirements
724.991	Alternative Control Requirements for Tanks (Repealed)

SUBPART DD: CONTAINMENT BUILDINGS

Section

724.1100	Applicability
724.1101	Design and Operating Standards
724.1102	Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE

Section

724.1200	Applicability
724.1201	Design and Operating Standards
724.1202	Closure and Post-Closure Care

724.APPENDIX A	Recordkeeping Instructions
724.APPENDIX B	EPA Report Form and Instructions (Repealed)
724.APPENDIX D	Cochran's Approximation to the Behrens-Fisher Student's T-Test
724.APPENDIX E	Examples of Potentially Incompatible Waste
724.APPENDIX I	Groundwater Monitoring List

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

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991;

amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17773, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1724, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11726, effective August 9, 2016; amended in R19-3 at 42 Ill. Reg. _____, effective _____.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.171 Use of Manifest System

- a) Receipt of Manifested Hazardous Waste.
 - 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2), to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
 - 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) The owner, operator, or agent must sign and date, ~~by hand~~, each copy of the manifest;

- B) The owner, operator, or agent must note any discrepancies (as defined in Section 724.172) on each copy of the manifest;
- C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;
- D) The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;
- E) Paper manifest submission requirements are the following:
 - i) The ~~Within 30 days after delivery, the~~ owner, operator, or agent must send the top copy (Page 1) of ~~any paper the~~ manifest ~~and any paper continuation sheet~~ to the e-Manifest System for purposes of data entry and processing, ~~or in .~~ ~~In~~ lieu of ~~submitting the mailing this~~ paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest ~~and any continuation sheet~~, or both a data string file and the image file corresponding to Page 1 of the manifest ~~and any continuation sheet~~, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system must be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in e-Manifest System. ~~Any data or image files transmitted to USEPA under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and~~
 - ii) Options for Compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the USEPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the USEPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at

the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in e-Manifest; and

- F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.
- 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;
- BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.
- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of Section 722.134 only apply to owners or operators that are shipping hazardous waste that they generated at that facility.

- d) Within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal Equivalence to Paper Manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
 - 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand,

or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.

- 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
- h) Special Procedures Applicable to Replacement Manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
 - 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;

- 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
- j) Imposition of User Fee for Electronic Manifest Submissions ~~e-Manifest Use~~.
- 1) As prescribed in 40 CFR 264.1311, incorporated by reference in 35 Ill. Adm. Code 720.111, and determined in 40 CFR 264.1312, incorporated by reference in 35 Ill. Adm. Code 720.111, an owner or operator that is a user of the e-Manifest System ~~must~~ ~~may~~ be assessed a user fee by USEPA for the submission and origination or processing of each e-Manifest and paper manifest. An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection (a)(2)(E). USEPA has stated that it would ~~maintain and update from time to time the current schedule of e-Manifest System user fees and publish them to the user community, as provided in 40 CFR 264.1313, incorporated by reference in 35 Ill. Adm. Code 720.111 which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~
 - 2) An owner or operator subject to user fees under this Section must make user fee payments in accordance with the requirements of 40 CFR 264.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject to the informal fee dispute resolution process of 40 CFR 264.1316, incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the

sanctions for delinquent payments under 40 CFR 264.1315, incorporated by reference in 35 Ill. Adm. Code 720.111.

- k) E-Manifest Signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.
- l) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections it may submit at any time by any interested person (i.e., any waste handler shown on the manifest or the Agency).
- 1) An interested person must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in the e-Manifest System for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.
 - 2) Each correction submission must include the following information:
 - A) The Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;
 - B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.
 - 3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:
 - A) The person must execute the certification statement with a valid electronic signature; and
 - B) The person may submit a batch upload of data corrections under one certification statement.
 - 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS

Section 724.986 Standards: Containers

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 724.982(b) references the use of this Section for such air emission control.
- b) General Requirements.
- 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the special provisions for waste stabilization processes specified in subsection (b)(2) apply to the container.
- A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c).
- B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c).
- C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d).
- 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) ~~of this Section~~ at those times during the waste stabilization

process when the hazardous waste in the container is exposed to the atmosphere.

- c) Container Level 1 Standards.
 - 1) A container using Container Level 1 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f).
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a “portable tank” or bulk cargo container equipped with a screw-type cap).
 - C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.
 - 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
 - 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position, except as follows:

- A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
- i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.
 - ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first.
- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.

- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.
 - D) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.
 - E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices, as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container, as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible

cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (USEPA Form Forms-8700-22 and 8700-22A), incorporated by reference in 35 Ill. Adm. Code 720.111,~~ as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C).

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C).
 - C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- 5) The owner or operator must maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater that do not meet applicable USDOT regulations, as specified in subsection (f), are not managing hazardous waste in light material service.
- d) Container Level 2 Standards.

- 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f).
 - B) A container that operates with no detectable organic emissions, as defined in 35 Ill. Adm. Code 725.981, and determined in accordance with the procedure specified in subsection (g).
 - C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Reference Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h).
- 2) Transfer of hazardous waste in or out of a container using Container Level 2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.
- 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install

the covers, as applicable to the container, upon conclusion of the filling operation.

- ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon whichever of the following conditions occurs first: the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container.
- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or

operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.

- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.
 - E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices, as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the

facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Form Forms 8700-22 and 8700-22A and Their Instructions)),~~ incorporated by reference in 35 Ill. Adm. Code 722.111, as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C).

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C).
 - C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- e) Container Level 3 Standards.
- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B).
 - B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B).
 - 2) The owner or operator must meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:
 - A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as

specified in “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 of “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” initially when the enclosure is first installed and, thereafter, annually.

- B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 724.987.
- 3) Safety devices, as defined in 35 Ill. Adm. Code 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1).
- 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 724.987.
- 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 724.989(d).
- 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A), containers must be used that meet the applicable USDOT regulations on packaging hazardous materials for transportation, as follows:
- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173 (Shippers—General Requirements for Shipments and Packages), and 49 CFR 180 (Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 3) For the purpose of complying with this Subpart CC, no exceptions to the 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4).
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings), for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- g) To determine compliance with the no detectable organic emissions requirement of subsection (d)(1)(B), the procedure specified in Section 724.983(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that are associated with containers include, but are not limited to, the following: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.
 - 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be

managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.

- h) Procedure for determining a container to be vapor-tight using Reference Method 27 for the purpose of complying with subsection (d)(1)(C).
 - 1) The test must be performed in accordance with Reference Method 27.
 - 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.098 in) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.
 - 3) If the test results determined by Reference Method 27 indicate that the container sustains a pressure change less than or equal to 0.75 kPa (0.11 psig) within five minutes after it is pressurized to a minimum of 4.5 kPa (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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

PART 725
 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF
 HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL
 FACILITIES

SUBPART A: GENERAL PROVISIONS

- Section
- 725.101 Purpose, Scope, and Applicability
- 725.102 Electronic Reporting
- 725.104 Imminent Hazard Action

SUBPART B: GENERAL FACILITY STANDARDS

- Section
- 725.110 Applicability
- 725.111 USEPA Identification Number
- 725.112 Required Notices
- 725.113 General Waste Analysis
- 725.114 Security
- 725.115 General Inspection Requirements
- 725.116 Personnel Training
- 725.117 General Requirements for Ignitable, Reactive, or Incompatible Wastes
- 725.118 Location Standards

725.119 Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section

725.130 Applicability
 725.131 Maintenance and Operation of Facility
 725.132 Required Equipment
 725.133 Testing and Maintenance of Equipment
 725.134 Access to Communications or Alarm System
 725.135 Required Aisle Space
 725.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

725.150 Applicability
 725.151 Purpose and Implementation of Contingency Plan
 725.152 Content of Contingency Plan
 725.153 Copies of Contingency Plan
 725.154 Amendment of Contingency Plan
 725.155 Emergency Coordinator
 725.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section

725.170 Applicability
 725.171 Use of Manifest System
 725.172 Manifest Discrepancies
 725.173 Operating Record
 725.174 Availability, Retention, and Disposition of Records
 725.175 Annual Report
 725.176 Unmanifested Waste Report
 725.177 Additional Reports

SUBPART F: GROUNDWATER MONITORING

Section

725.190 Applicability
 725.191 Groundwater Monitoring System
 725.192 Sampling and Analysis
 725.193 Preparation, Evaluation, and Response
 725.194 Recordkeeping and Reporting

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section

725.210 Applicability
 725.211 Closure Performance Standard

725.212	Closure Plan; Amendment of Plan
725.213	Closure; Time Allowed for Closure
725.214	Disposal or Decontamination of Equipment, Structures, and Soils
725.215	Certification of Closure
725.216	Survey Plat
725.217	Post-Closure Care and Use of Property
725.218	Post-Closure Care Plan; Amendment of Plan
725.219	Post-Closure Notices
725.220	Certification of Completion of Post-Closure Care
725.221	Alternative Post-Closure Care Requirements

SUBPART H: FINANCIAL REQUIREMENTS

Section	
725.240	Applicability
725.241	Definitions of Terms as Used in this Subpart H
725.242	Cost Estimate for Closure
725.243	Financial Assurance for Closure
725.244	Cost Estimate for Post-Closure Care
725.245	Financial Assurance for Post-Closure Monitoring and Maintenance
725.246	Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
725.247	Liability Requirements
725.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
725.251	Promulgation of Forms (Repealed)

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section	
725.270	Applicability
725.271	Condition of Containers
725.272	Compatibility of Waste with Containers
725.273	Management of Containers
725.274	Inspections
725.276	Special Requirements for Ignitable or Reactive Wastes
725.277	Special Requirements for Incompatible Wastes
725.278	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
725.290	Applicability
725.291	Assessment of Existing Tank System Integrity
725.292	Design and Installation of New Tank Systems or Components
725.293	Containment and Detection of Releases
725.294	General Operating Requirements
725.295	Inspections
725.296	Response to Leaks or Spills and Disposition of Tank Systems

725.297	Closure and Post-Closure Care
725.298	Special Requirements for Ignitable or Reactive Wastes
725.299	Special Requirements for Incompatible Wastes
725.300	Waste Analysis and Trial Tests
725.301	Generators of 100 to 1,000 Kilograms of Hazardous Waste Per Month
725.302	Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section	
725.320	Applicability
725.321	Design and Operating Requirements
725.322	Action Leakage Rate
725.323	Containment System
725.324	Response Actions
725.325	Waste Analysis and Trial Tests
725.326	Monitoring and Inspections
725.328	Closure and Post-Closure Care
725.329	Special Requirements for Ignitable or Reactive Wastes
725.330	Special Requirements for Incompatible Wastes
725.331	Air Emission Standards

SUBPART L: WASTE PILES

Section	
725.350	Applicability
725.351	Protection from Wind
725.352	Waste Analysis
725.353	Containment
725.354	Design and Operating Requirements
725.355	Action Leakage Rates
725.356	Special Requirements for Ignitable or Reactive Wastes
725.357	Special Requirements for Incompatible Wastes
725.358	Closure and Post-Closure Care
725.359	Response Actions
725.360	Monitoring and Inspections

SUBPART M: LAND TREATMENT

Section	
725.370	Applicability
725.372	General Operating Requirements
725.373	Waste Analysis
725.376	Food Chain Crops
725.378	Unsaturated Zone (Zone of Aeration) Monitoring
725.379	Recordkeeping
725.380	Closure and Post-Closure Care
725.381	Special Requirements for Ignitable or Reactive Wastes

725.382 Special Requirements for Incompatible Wastes

SUBPART N: LANDFILLS

Section

725.400 Applicability
 725.401 Design Requirements
 725.402 Action Leakage Rate
 725.403 Response Actions
 725.404 Monitoring and Inspections
 725.409 Surveying and Recordkeeping
 725.410 Closure and Post-Closure Care
 725.412 Special Requirements for Ignitable or Reactive Wastes
 725.413 Special Requirements for Incompatible Wastes
 725.414 Special Requirements for Liquid Wastes
 725.415 Special Requirements for Containers
 725.416 Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)

SUBPART O: INCINERATORS

Section

725.440 Applicability
 725.441 Waste Analysis
 725.445 General Operating Requirements
 725.447 Monitoring and Inspections
 725.451 Closure
 725.452 Interim Status Incinerators Burning Particular Hazardous Wastes

SUBPART P: THERMAL TREATMENT

Section

725.470 Other Thermal Treatment
 725.473 General Operating Requirements
 725.475 Waste Analysis
 725.477 Monitoring and Inspections
 725.481 Closure
 725.482 Open Burning; Waste Explosives
 725.483 Interim Status Thermal Treatment Devices Burning Particular Hazardous Wastes

SUBPART Q: CHEMICAL, PHYSICAL, AND BIOLOGICAL TREATMENT

Section

725.500 Applicability
 725.501 General Operating Requirements
 725.502 Waste Analysis and Trial Tests
 725.503 Inspections
 725.504 Closure
 725.505 Special Requirements for Ignitable or Reactive Wastes

725.506 Special Requirements for Incompatible Wastes

SUBPART R: UNDERGROUND INJECTION

Section

725.530 Applicability

SUBPART W: DRIP PADS

Section

725.540 Applicability

725.541 Assessment of Existing Drip Pad Integrity

725.542 Design and Installation of New Drip Pads

725.543 Design and Operating Requirements

725.544 Inspections

725.545 Closure

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section

725.930 Applicability

725.931 Definitions

725.932 Standards: Process Vents

725.933 Standards: Closed-Vent Systems and Control Devices

725.934 Test Methods and Procedures

725.935 Recordkeeping Requirements

SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section

725.950 Applicability

725.951 Definitions

725.952 Standards: Pumps in Light Liquid Service

725.953 Standards: Compressors

725.954 Standards: Pressure Relief Devices in Gas/Vapor Service

725.955 Standards: Sampling Connecting Systems

725.956 Standards: Open-Ended Valves or Lines

725.957 Standards: Valves in Gas/Vapor or Light Liquid Service

725.958 Standards: Pumps, Valves, Pressure Relief Devices, Flanges, and Other Connectors

725.959 Standards: Delay of Repair

725.960 Standards: Closed-Vent Systems and Control Devices

725.961 Percent Leakage Alternative for Valves

725.962 Skip Period Alternative for Valves

725.963 Test Methods and Procedures

725.964 Recordkeeping Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS

Section	
725.980	Applicability
725.981	Definitions
725.982	Schedule for Implementation of Air Emission Standards
725.983	Standards: General
725.984	Waste Determination Procedures
725.985	Standards: Tanks
725.986	Standards: Surface Impoundments
725.987	Standards: Containers
725.988	Standards: Closed-Vent Systems and Control Devices
725.989	Inspection and Monitoring Requirements
725.990	Recordkeeping Requirements
725.991	Alternative Tank Emission Control Requirements (Repealed)

SUBPART DD: CONTAINMENT BUILDINGS

Section	
725.1100	Applicability
725.1101	Design and Operating Standards
725.1102	Closure and Post-Closure Care

SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES
STORAGE

Section	
725.1200	Applicability
725.1201	Design and Operating Standards
725.1202	Closure and Post-Closure Care
725.APPENDIX A	Recordkeeping Instructions
725.APPENDIX B	EPA Report Form and Instructions (Repealed)
725.APPENDIX C	USEPA Interim Primary Drinking Water Standards
725.APPENDIX D	Tests for Significance
725.APPENDIX E	Examples of Potentially Incompatible Wastes
725.APPENDIX F	Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)

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R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11830, effective August 9, 2016; amended in R19-3 at 42 Ill. Reg. _____, effective _____.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section 725.171 Use of Manifest System

- a) Receipt of manifested hazardous waste.
 - 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) of this Section, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

- 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
- A) The owner, operator, or agent must sign and date, by hand, each copy of the manifest;
 - B) The owner, operator, or agent must note any discrepancies (as defined in 35 Ill. Adm. Code 724.172) on each copy of the manifest;
 - C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;
 - D) The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;
 - E) Paper manifest submission requirements are the following:
 - i) The ~~Within 30 days after delivery,~~ the owner, operator, or agent must send the top copy (Page 1) of any paper the manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing, ~~or in ~~In~~ lieu of submitting the mailing this paper copy~~ to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest and any continuation sheet, or both a data string file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system must be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in e-Manifest System. Any data or image files transmitted to USEPA under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and
 - ii) Options for Compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only

by transmitting to the USEPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the USEPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in e-Manifest; and

- F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.
- 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
- 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.134 apply only to owners or operators that are shipping hazardous waste which they generated at that facility.

- d) Within three working days of the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other countries concerned. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in

accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.

- 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
- h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement

manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;

- 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
- j) Imposition of User Fee ~~user fee~~ for e-Manifest Use ~~use~~.
- 1) As prescribed in 40 CFR 265.1311, incorporated by reference in 35 Ill. Adm. Code 720.111, and determined in 40 CFR 265.1312, incorporated by reference in 35 Ill. Adm. Code 720.111, an ~~An~~ owner or operator that is a user of the e-Manifest System must ~~may~~ be assessed a user fee by USEPA for the submission and origination ~~or processing~~ of each e-Manifest and paper manifest. ~~An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection (a)(2)(E).~~ USEPA has stated that it would maintain and update from time to time the current schedule of e-Manifest System user fees and publish them to the user community, as provided in 40 CFR 265.1313, incorporated by reference in 35 Ill. Adm. Code 720.111 which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. ~~USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

- 2) An owner or operator subject to user fees under this Section must make user fee payments in accordance with the requirements of 40 CFR 265.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject to the informal fee dispute resolution process of 40 CFR 265.1316, incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the sanctions for delinquent payments under 40 CFR 265.1315, incorporated by reference in 35 Ill. Adm. Code 720.111.
- k) E-Manifest signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.
- 1) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections it may submit at any time by any interested person (i.e., any waste handler shown on the manifest or the Agency).
 - 1) An interested person must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in the e-Manifest System for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.
 - 2) Each correction submission must include the following information:
 - A) The Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;
 - B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.
 - 3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:
 - i) The person must execute the certification statement with a valid electronic signature; and
 - ii) The person may submit a batch upload of data corrections under one certification statement.

- 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.
- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS

Section 725.987 Standards: Containers

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 725.983(b) references the use of this Section for air emission control.
- b) General Requirements.
- 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the following special provisions for waste stabilization processes specified in subsection (b)(2) apply to the container:
- A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c);
- B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c); and
- C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d).

- 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.
- c) Container Level 1 Standards.
- 1) A container using Container Level 1 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f);
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a “portable tank” or bulk cargo container equipped with a screw-type cap); and
 - C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.
 - 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
 - 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices

for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:

- A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and
 - ii) If when discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:
 - i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation

leaves the immediate vicinity of the container, whichever condition occurs first;

- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;
 - D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the container internal pressure in accordance with the design specifications of the container. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and
 - E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the

conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Form Forms 8700-22 and 8700-22A and Their Instructions))~~, incorporated by reference in 35 Ill. Adm. Code 720.111(b), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C);

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C); and
- C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.

5) The owner or operator must maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater which do not meet applicable USDOT regulations, as specified in subsection (f), are not managing hazardous waste in light material service.

d) Container Level 2 Standards.

- 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation as specified in subsection (f);
 - B) A container that operates with no detectable organic emissions, as defined in Section 725.981, and determined in accordance with the procedure specified in subsection (g); and
 - C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Reference Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h).
- 2) Transfer of hazardous waste into or out of a container using Container Level 2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.
- 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install

the covers, as applicable to the container, upon conclusion of the filling operation; and

- ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;
- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container as defined in 35 Ill. Adm. Code 721.107(b) may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or

operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;

- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and
 - E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the

facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A and Their Instructions)), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C);

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C); and
- C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.

e) Container Level 3 Standards.

- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B); or
 - B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B).
- 2) The owner or operator must meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:
 - A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in "Procedure T—Criteria for and Verification of a

Permanent or Temporary Total Enclosure” under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 of “Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure” initially when the enclosure is first installed and, thereafter, annually; and

- B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 725.988.
- 3) Safety devices, as defined in Section 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1).
 - 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 725.988.
 - 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 725.990(d).
 - 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A), containers must be used that meet the applicable USDOT regulations on packaging hazardous materials for transportation as follows:
- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173 (Shippers—General Requirements for Shipments and Packages), and 49 CFR 180 (Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 3) For the purpose of complying with this Subpart CC, no exceptions to the federal 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4); and
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings) for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- g) To determine compliance with the no detectable organic emissions requirements of subsection (d)(1)(B), the procedure specified in Section 725.984(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that are associated with containers include, but are not limited to: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.
 - 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be

managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.

- h) The procedure for determining a container to be vapor-tight using Reference Method 27 for the purpose of complying with subsection (d)(1)(C) is as follows:
- 1) The test must be performed in accordance with Reference Method 27;
 - 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.10 inch) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness; and
 - 3) If the test results determined by Reference Method 27 indicate that the container sustains a pressure change less than or equal to 0.75 kPa (0.11 psig) within five minutes after it is pressurized to a minimum of 4.5 kPa (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 40 Ill. Reg. 11830, effective August 9, 2016)