

ILLINOIS POLLUTION CONTROL BOARD
February 5, 1998

IN THE MATTER OF:)
)
AMENDMENTS OF 35 ILL. ADM. CODE) R98-12
703, 720, 721, 724, 725, 728, and 733) (Rulemaking - Land)
(STANDARDS FOR UNIVERSAL WASTE)
MANAGEMENT))

Proposed Rule. Second Notice.

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On October 17, 1997, the Illinois Environmental Protection Agency (Agency), pursuant to Sections 27 and 28 of the Environmental Protection Act (Act) (415 ILCS 5/27, 28 (1996)), filed a rulemaking proposal to amend the Board's regulations concerning standards for universal waste management (35 Ill. Adm. Code 733, Standards for Universal Waste Management). Today, the Board sends this matter to second notice pursuant to the Illinois Administrative Procedure Act (APA) (5 ILCS 100/5-5 *et seq.* (1996)). In the sections that follow, the Board will provide background for this rulemaking and a summary of the rule, as well as discuss issues which have arisen since the first notice opinion and order, and the Board's resolution of those issues.

BACKGROUND

On May 11, 1995, the United States Environmental Protection Agency (USEPA) adopted streamlined regulations for certain widely-generated wastes (the Universal Waste Rule). See 40 C.F.R. 273; see also 60 Fed. Reg. 25493. Under these regulations, the management of certain wastes was exempt from regulations as hazardous waste if managed within specific limitations. The purpose of the Universal Waste Rule was to reduce the amount of hazardous waste in the municipal solid waste stream, to encourage recycling and proper disposal of common hazardous wastes, and to reduce the regulatory burden on businesses that generate waste. As adopted, the Universal Waste Rule applied to batteries, agricultural pesticides, and mercury-containing thermostats, but did not include mercury-containing lamps, which left these items subject to the generally applicable hazardous waste management rules.

On June 20, 1996, the Board adopted the Universal Waste Rule and codified it at 35 Ill. Adm. Code 733. See In the Matter of: RCRA Update, USEPA Regulations (1-1-95 through 6-30-95, 7-7-95, 9-29-95, 11-13-95 & 6-6-96) (June 20, 1996), R95-20. In the Board's opinion and order, the Board noted that "USEPA stated in adopting the [Universal Waste Rules] that it intend[ed] to expand [the Universal Waste Rule's] applicability to new wastes in the future, such as fluorescent light bulbs." Although USEPA is currently

considering the addition of fluorescent light bulbs to the Universal Waste Rule, it has not taken such action, and final action by USEPA is not expected in the near future. Tr. at 7-8, 17-18.¹

On August 19, 1997, Governor Jim Edgar signed into law Public Act 90-502 (Pub. Act. 90-502, eff. August 19, 1997 (amended 415 ILCS 5/22.23a (1996))). This legislation specifically designated high intensity discharge lamps and fluorescent lamps as a category of universal waste. It further required the Agency to propose implementing regulations to the Board within 60 days after the effective date of the public act and for the Board to adopt such implementing regulations within 180 days of receipt of the Agency's proposal. Thus, the Board must complete this rulemaking on or before April 15, 1998.

On October 17, 1997, the Agency filed a rulemaking proposal (Prop.) with the Board to amend the Board's regulations concerning standards for universal waste management (35 Ill. Adm. Code 733, Standards for Universal Waste Management). Such proposal is the regulatory proposal mandated by Public Act 90-502. Specifically, the Agency's proposal requested that the Board amend certain sections of Part 733 to designate mercury-containing lamps, which are currently classified as hazardous waste, as universal waste.

Due to the stringent timeframe for final adoption, the Board on November 6, 1997, adopted the Agency's proposal for first notice under the APA without commenting on the merits of the proposal. In the Matter of: Amendments of 35 Ill. Adm. Code 703, 720, 721, 724, 725, 728, and 733 (Standards for Universal Waste Management) (November 6, 1997), R98-12. The Board did, however, make some non-substantive grammatical, typographical, and mechanical changes to the proposal to conform the proposal to codification requirements. The Board also removed certain sections of Part 733 from the proposal because the Agency did not propose amendments to those sections. Further, the Board included several Board notes in the rules to indicate that certain provisions were not federally-derived identical-in-substance rules. Moreover, although the proposal only sought to amend certain sections of Part 733, universal waste disposal is referenced in several other sections of the Board's rules. The Board therefore also proposed to amend 35 Ill. Adm. Code 703, 720, 721, 724, 725, and 728 to conform to the amendments to Part 733. Publication of the proposed amendments for first notice were published in the *Illinois Register* on November 21, 1997, at 47 Ill. Reg. 14725.

The Board held hearings in this matter on December 9, 1997, in Springfield, Illinois, and on December 15, 1997, in Chicago, Illinois, before Board Hearing Officer Cynthia Ervin. The purpose of those hearings was to allow the Agency and other interested persons the opportunity to comment on the merits and economic impact of the proposal. In general, the testimony presented at these hearings reflected that all parties are in favor of the proposed rules, except for provisions in the proposed rules that prohibit handlers of universal waste²

¹ References to the hearing transcripts will be cited as "Tr." References to exhibits will be cited to by number as "Exh." References to public comments will be cited to by number as "PC."

² A "universal waste handler" is defined as a generator of universal waste, or the owner or operator of a facility that receives universal waste from other universal waste handlers,

mercury-containing lamps from intentionally breaking or crushing these lamps. This issue is more fully explained below.

Subsequent to the hearings, the Board received the following public comments:

PC 1	Dale S. Duffala, Senior Project Manager, Beling Consultants
PC 2	Leonard Worth, President, Fluorecycle, Inc. (Fluorecycle)
PC 3	Laurence C. Kelly, President, Spent Lamp Recycling Technologies, Inc. (S.L.R.T)
PC 4	Agency
PC 5	Eugene H. Bernstein on behalf of Commonwealth Edison Company (ComEd) and Whitney Wagner Rosen on behalf of the Illinois Environmental Regulatory Group (IERG)
PC 6	Illinois Steel Group (ISG)
PC 7	ComEd and IERG
PC 8	Beling Consultants
PC 9	S.L.R.T
PC 10	Fluorecycle, Inc. ³

The public comments generally paralleled the participants' comments at hearing concerning the issue of intentional breaking or crushing of mercury-containing lamps. Additionally, the ISG in its public comment requested that the Board amend the proposal to exempt from hazardous waste determinations *de minimis* amounts of certain types of wastes generated by handlers of universal waste mercury-containing lamps. See PC 6. These issues are more fully discussed below.

Based on the testimony presented at the hearings and the public comments received, the Board finds that the proposal with the amendments discussed below is economically reasonable and technically feasible. The Board also finds that the Agency has generally supported the proposal, and the proposal warrants approval for second notice with certain amendments. Accordingly, the Board will proceed with the proposal as published at first notice with the amendments discussed below and as reflected in the attached order.

The Board has also considered whether Public Act 90-489, which became effective on January 1, 1998, applies to this particular rulemaking.⁴ The Board concludes that it does not.

accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination. See 35 Ill. Adm. Code 733.106.

³ The Board received PC 10 on January 26, 1998. The record in this proceeding, however, closed on January 15, 1998. Because PC 10 was received after the comment period closed and there was no opportunity for responses to the comment, the Board strikes PC 10 from the record, and it will not be considered by the Board.

⁴ Public Act 90-489, which amended Section 27 of the Act, requires the Board to request that the Department of Commerce and Community Affairs (DCCA) conduct an economic impact study (EcIS) on certain proposed rules prior to adoption of those rules. If DCCA chooses to conduct the EcIS, DCCA has 30 to 45 days after such request to conduct the EcIS.

The Board had proceeded to first notice and had completed the hearings in this rulemaking prior to January 1, 1998, the effective date of Public Act 90-489. Moreover, the Board is required to proceed to second notice today in order to meet the statutory deadline for the adoption of final rules. Under these circumstances, the Board concludes that the EcIS provisions do not apply to this rulemaking. Further, the Board cannot make substantive changes to a proposed rule after proceeding to second notice except in response to specific objections or suggestions made by the Joint Committee on Administrative Rules. See 5 ILCS 100/5-40 (1996). Therefore, the Board believes that requesting an EcIS now would serve no practical purpose and would be contrary to the intent of Public Act 90-489.

THE BREAKING OR CRUSHING OF MERCURY-CONTAINING LAMPS

The Agency originally proposed in Sections 733.113(d)(5), 733.133(d)(5), and 733.151(c) that small and large quantity handlers of universal waste and transporters of universal waste, respectively, be prohibited from intentionally breaking or crushing universal waste mercury-containing lamps. See Prop. at 4. The Agency indicated that it chose this position as being the most protective of public health and the environment. PC 4 at 1. The Agency supported its position by relying on a USEPA document entitled "Mercury Emissions From the Disposal of Fluorescent Lamps" (see Exh. 3), which indicates that information regarding drum-top crushing technology is unclear. Exh. 3 at 2-17 through 2-18.

The USEPA report also explains that mercury is contained in two forms in mercury-containing lamps, in the elemental, vapor phase, and in the solid, divalent phosphor powder form, with the majority of the mercury in the solid state. Exh. 3 at 2-3. When a bulb is crushed, most of the immediate threat of emissions comes from the mercury in the vapor phase which may escape to the atmosphere when the containment of the bulb is broken. The mercury in the powder form may also be released if handled improperly. Therefore, the Agency asserts that lamp crushing, if performed, must address the problems of containment of mercury emissions in both solid and vapor forms. Further, the crushing machinery must be operated and maintained properly. As noted in the report, drum top crushing in a poorly maintained machine can propel solid, phosphor form mercury into the air, as well as releasing the vapor state mercury, thus causing greater emissions than in management which results in 100% breakage of the lamps, with no containment of the vapor state mercury. PC 4 at 2.

Although the Agency maintains that its original position regarding the prohibition against crushing or breaking lamps by handlers is sound, the Agency asserts that if crushing is performed, it must be done with adequate safeguards to eliminate the threat of mercury emissions. Therefore, the Agency has proposed that the following language be inserted at Sections 733.113(d)(5) and 733.133(d)(5) if handlers are allowed to intentionally crush or break universal waste mercury-containing lamps:

[Small quantity handlers, Large quantity handlers] of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:

- a) The lamps are crushed in a closed system designed and operated to achieve 90% or better control efficiency of any vapor phase mercury and 100% control efficiency of any solid phase mercury;
- b) The handler must provide notification of crushing activity to the Agency, in a form as provided by the Agency, of the estimated monthly amount of lamps crushed, the technology employed in the crushing including data verifying that the crushing device achieves the emission controls required in (a), above, and information as to the identify of the handler;
- c) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;
- d) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- e) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- f) The crushed lamps are stored in closed, non-leaking containers that are in good conditions (e.g. no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation. PC 4 at 3.

The Agency states that the 90% emission control standard is based on the high estimate for current technology contained in the USEPA's mercury emissions report (Exh. 3). The Agency also maintains that the proposed standard sets a goal for technology to meet or exceed and also ensures that adequate safeguards are in place. PC 4 at 2-3.

A number of other participants addressed the issue of intentional crushing of universal waste mercury-containing lamps at hearing and in public comments. For instance, Fluorecycle supports the prohibition on allowing handlers to intentionally crush or break lamps. PC 2 at 1-2. However, several of the other participants, including ComEd, IERG, Beling Consultants, S.L.R.T, and the ISG, are opposed to the prohibition. These same participants also oppose the language offered by the Agency if crushing or breaking is allowed. Generally, these participants believe that the prohibition, along with the Agency's suggested language change, effectively prohibit the development and implementation of technologies that will allow for the recycling of spent fluorescent and other high-intensity discharge lamps. See PC 1 at 1. The following is a summary of the participants' positions concerning intentional crushing of spent lamps.

Fluorecycle, Inc.

Fluorecycle supports the prohibition on allowing handlers to intentionally crush or break lamps. PC 2 at 1-2. In 1998, Fluorecycle intends to construct the first fluorescent and high intensity discharge lamp recycling facility in Lakemoor, Illinois. Fluorecycle has received siting approval for the facility from the Village of Lakemoor and is currently preparing a Resource Conservation and Recovery Act (RCRA) Part A and Part B permit application. PC 2 at 1. The facility will use equipment to crush the lamps, separate the phosphor powder from the glass and metal components, and reclaim liquid mercury through a distillation (retort) process. These activities will be conducted in a single building. The processing, including lamp crushing, will be conducted in enclosed equipment maintained under negative air pressure to capture any fugitive mercury vapor or mercury-containing phosphor dust. PC 2 at 1.

Fluorecycle specifically supports the prohibition on crushing or breaking for several reasons. First, Fluorecycle asserts that the Agency and the USEPA intend for recycling facilities to be terminal or destination facilities that will produce a re-usable product. Fluorecycle believes, however, that a facility that simply crushes the lamps has rendered the lamps into a reduced volume only and made the mercury more readily available for release into the environment. PC 2 at 2. Moreover, Fluorecycle maintains that crushing should be an integral part of a continuous recycling process. Otherwise, Fluorecycle contends that nearly any form of hazardous waste treatment could be considered an interim step in a reclamation process. PC 2 at 2.

Additionally, Fluorecycle supports the prohibition because it believes that it is necessary to process lamps from crushing to mercury reclamation as a single process to ensure the efficiency of the recovery operation. Fluorecycle states that the most notable pitfall in separating the processes is the introduction of moisture into the phosphor powder or powder-glass metal mixture which prevents separation. Systems that separate the phosphor powder from the other materials prior to distillation have a nearly zero tolerance for moisture. PC 2 at 2. Fluorecycle is, however, not aware of any facilities that do not separate the components before distillation of the phosphor powder, which essentially contains the reclaimable mercury. PC 2 at 2.

ComEd and IERG

During the hearing held in Chicago, ComEd and IERG presented proposed language to amend Sections 733.113(d), 733.133(d), and 733.151(c) that would allow handlers and transporters to crush or break universal waste mercury-containing lamps:

- 2) A large quantity handler of universal waste lamps must at all times manage waste lamps in a way that minimizes unintentional lamp breakage.
- 5) ~~Universal waste mercury-containing lamps shall not be intentionally broken or crushed.~~ Universal waste lamps may be intentionally broken or crushed to reduce storage volume. Such breaking, crushing, handling, or storage must be conducted in equipment specifically

designed and operated to minimize the release of mercury to the workplace or environment and must ensure compliance with applicable OSHA exposure levels for mercury. Exh. 9 at 5-6.

The ComEd/IERG proposal was presented in the testimony of Jennifer Cawein, an environmental engineer in the Corporate Services Department at ComEd. Exh. 9 at 6-7; Tr. at 73. Ms. Cawein explained that a blanket prohibition against crushing would preclude the introduction in Illinois of improvements in lamp recycling technology. Tr. at 66-67. Ms. Cawein also testified that the blanket prohibition on crushing activities would unnecessarily inflate the cost of recycling and place Illinois businesses that wish to recycle at a disadvantage relative to counterparts in other states. Tr. at 67. Further, Ms. Cawein stated that crushing was not widely utilized in Illinois. For example, ComEd crushes fewer than one percent of its generated lamps. Ms. Cawein explained, however, that the development of new and improved crushers were expected to drive down the cost of recycling and mercury recovery. Cost reduction, Ms. Cawein believed, would be the primary factor in capturing more lamps for mercury recovery. Tr. at 67.

Additionally, Ms. Cawein testified that an attribute of the ComEd/IERG proposal was its relative simplicity and flexibility. She explained that the proposed language allows crushing activities that are conducted in a manner that is both protective of workers and the environment, without imposing an inflexible standard that could preclude innovation and progress in an industry that is likely to experience significant changes in the future. Tr. at 73-74; see also PC 5 at 4.

In post-hearing comments, ComEd and IERG also expressed several reasons why they are opposed to the Agency's suggested language that allows the intentional crushing of lamps. ComEd and IERG assert that the Agency's approach "is so prescriptive and unrealistic that if adopted it would likely function as a bar to generator crushing." PC 7 at 3. First, ComEd and IERG contend that the 90% control of vapor phase mercury standard is based on estimates of control efficiency contained in the USEPA document, not actual control efficiency values. ComEd and IERG therefore assert that the Agency has transformed a simple estimate of a range of control efficiencies into a standard and converted the top end of the range to a standard. PC 7 at 4. Moreover, ComEd and IERG point out that the Agency does not provide information concerning any equipment that has been demonstrated to actually achieve the Agency's proposed level of control. PC 7 at 4.

Further, ComEd and IERG state that they have surveyed numerous lamp recyclers and manufacturers of recycling or crushing equipment and were unable to locate one who was able to provide an efficiency of capture value for their crushing equipment. In fact, ComEd and IERG assert that they were told repeatedly that such a number would be extremely difficult, if not impossible, to obtain "due to the inherent variability in the mercury content of used lamps." PC 7 at 4. ComEd and IERG also assert that:

the starting mercury vapor content (influent) must be known before the percent reduction efficiency associated with the emission (effluent) can be determined, Lamps vary widely in mercury content not only with age and manufacturer, but

even with a single batch of manufactured lamps, and exact mercury vapor content cannot be known until the lamp is actually broken. For this reason, lamp manufacturers do not claim achievement of any particular percentage of emission reduction with their equipment. PC 7 at 4.

ComEd and IERG also contend that the Agency's proposed language is flawed in two other respects. First, they assert that the requirements concerning the monitoring of mercury emissions and notifying the Agency of the details of crushing activities are overly burdensome for generators for whom handling of used lamps is ancillary to their main business. Moreover, ComEd and IERG maintain that the requirement for verifying that the crushing device achieves the emission control required would be impossible if the standard was the control efficiency sought by the Agency. PC 7 at 4.

In contrast, ComEd and IERG state that the Occupational Safety and Health Administration (OSHA) standards contained within their proposal address the actual measurable and quantifiable emissions of mercury from crushing units. They further maintain that it is with regard to actual emissions that manufacturers provide specifications to demonstrate protectiveness of their equipment. PC 7 at 4. For these reasons, ComEd and IERG urge the Board to adopt their proposal that utilizes the OSHA standards.

Beling Consultants and S.L.R.T

Beling Consultants and S.L.R.T are also opposed to the prohibition on crushing by handlers and the language offered by the Agency if crushing is allowed. S.L.R.T has developed a mobile mercury vapor extraction unit. Tr. at 117. The S.L.R.T. system is a mobile, truck-mounted system that contains a crushing unit, material recovery areas, and an activated carbon filtration system to remove mercury vapor from the airstream and prevent its emission into the atmosphere. PC 3 at 3; Tr. at 117-118.

Beling Consultants were retained by S.L.R.T to provide professional consulting services regarding the development and implementation of a process to recycle spent fluorescent and other high-intensity discharge lamps. PC at 1. Beling Consultants have supervised the mercury monitoring of the S.L.R.T process and reviewed the resultant data. Based on this review, Beling Consultants testified that mercury emissions to the atmosphere have been reduced to below detection limits through the use of the two-stage carbon filtration system. PC 3 at 3-4; see also Tr. at 118. Additionally, Beling Consultants testified that workers have not been exposed to measurable concentrations of mercury within the cavity of the truck that houses the S.L.R.T. process. PC 1 at 1. As a result, Beling Consultants and S.L.R.T. believe that the proposed rules would not allow for the development and implementation of recycling technologies such as the S.L.R.T. process in Illinois. PC 1 at 2; PC 3 at 1.

Beling Consultants and S.L.R.T. agree that drum-top crushing emits significant concentrations of mercury into the atmosphere and contribute to the general degradation of air quality. Accordingly, they agree with the Agency that drum-top crushing should be eliminated from use. PC 1 at 2. S.L.R.T. also asserts that a prohibition on crushing activities by

handlers will have a detrimental economic effect on Illinois businesses that currently recycle spent lamps in Illinois. S.L.R.T. believes that the lack of additional recycling technologies and options will cause recycling costs to remain higher than they would be with the development and implementation of competing technologies, such as the S.L.R.T. process. PC 3 at 1. Currently, the only available option to Illinois businesses that recycle spent lamps is to send them out of state to a recycling facility. PC 3 at 2.

S.L.R.T. also favors using OSHA standards, as contained in the ComEd/IERG proposal, regarding occupational exposure to mercury vapors and Clean Air Act (CAA) National Emission Standards for Hazardous Air Pollutants (NESHAPs) governing the emission of mercury into the atmosphere from battery manufacturing plants and sewage treatment plants as standards for spent lamp recycling. PC 3 at 2-3; Tr. at 136. S.L.R.T. and Beling Consultants favor these standards because they are numeric, rather than performance based. S.L.R.T. believes that it is impractical to establish percentage reduction standards associated with the reduction or elimination of mercury vapor emissions to the atmosphere and apply them to technologies such as the S.L.R.T. system. PC 3 at 3. Further, S.L.R.T. contends that numeric standards are more appropriate and are simpler for the Agency to implement, monitor, and enforce. See PC 3 at 3; see also PC 8; PC 9 at 1. S.L.R.T. also maintains that the performance of a system can be directly measured and compared to such standards, and violations of the standards will become immediately apparent, especially when using continuous, real-time air monitoring equipment.

The Illinois Steel Group (ISG)

The ISG supports the comments of ComEd and IERG which propose allowing crushing of used lamps provided the crushing is done in a manner which is protective of workers and the environment. See PC 6 at 1.

Discussion

Based on the evidence presented, the Board concludes that barring the intentional crushing or breaking of universal waste mercury-containing lamps when done in a manner that is protective of workers and the environment is not supported by the record. The Board finds that barring crushing of universal waste mercury-containing lamps under conditions that are protective of workers and the environment would unnecessarily limit the introduction in Illinois of emerging technologies that promise more economic recycling in the future. Moreover, although considered hazardous waste, a large number of spent mercury-containing lamps are disposed of in municipal landfills. The Board therefore concludes that allowing the crushing of lamps under certain circumstances will encourage recycling and thus reduce the amount of mercury in landfills. Accordingly, the Board finds that a prohibition on crushing of spent lamps is not warranted under the record. The Board therefore proposes to amend Sections 733.113(d)(5), 733.133(d)(5), and 733.151(c) to allow for the crushing of universal waste mercury-containing lamps.

The more difficult issue for the Board to resolve is the language needed to allow crushing activities to occur, while at the same time encouraging recycling and ensuring that

adequate safeguards are in place to protect human health and the environment. Although the performance standard proposed by the Agency based on a 90% reduction of vapor phase mercury appears to be reasonable for emission control equipment in general, the participants have raised valid concerns regarding the implementation of such a standard. In most cases where such performance standards are employed, an operator would be in a position to measure the amount of a particular substance going in and coming out of an emission control device in order to determine the percent reduction. However, the information contained in the record indicates that it would be extremely difficult to make such measurements in lamp crushing systems due to the variability in mercury vapor content in used lamps. Moreover, other than a reference to the USEPA report, the Agency has not provided any information from manufacturers, recyclers, or other sources to show that the proposed standard could be achieved in practice.

On the other hand, the ComEd/IERG proposal also contains some deficiencies that makes adoption of this proposal equally problematic. The ComEd/IERG proposal does not provide clear guidelines to implement, monitor, and enforce emission control requirements. The ComEd/IERG proposal requires crushing to be conducted in equipment that is “designed and operated to minimize the release of mercury to the workplace or environment and must ensure compliance with applicable OSHA exposure levels for mercury.” Exh. 9 at 5-6. Since the proposal does not specify any numeric limitations, it does not provide assurance to a regulated entity as to whether or not it is in compliance. At the same time, the proposal does not offer clear guidelines to the Agency for compliance evaluation of crushing units.

Moreover, although the ComEd/IERG proposal requires a handler to ensure compliance with the applicable OSHA standards, compliance with such standards may not afford adequate protection to human health and environment. In this regard, the Agency correctly notes that the OSHA standards were adopted to protect workers from exposure to certain contaminants, but not necessarily to protect the environment and public health. PC 4 at 5. The OSHA standards cited in the ComEd/IERG proposal are set forth at 29 CFR 1910.1000. OSHA regulations specify standards for both elemental mercury and organo (alkyl) mercury. In the present context, the standard for elemental mercury is of interest since the issue concerns emissions of mercury vapor. The following exposure limitations for mercury are specified in Section 1910.1000, Table Z-2:

acceptable ceiling concentration (ACC)⁵: 0.1 mg/m³

However, OSHA has issued a memorandum dated September 3, 1996, which the Board has entered into the record as PC 11, that states that Section 1910.1000, Table Z-2, incorrectly lists the mercury exposure limit as a ceiling value of 0.1 mg/m³, rather than as an 8-hour time

⁵ Section 1910.1000(b)(2) defines ACC as follows: “An employee’s exposure to a substance listed in Table Z-2 shall not exceed at any time during an 8-hour shift the [ACC] limit given for the substance in the table, except for a time period, and up to a concentration not exceeding the maximum duration and concentration allowed in column under ‘acceptable maximum peak above the [ACC] for an 8-hour shift.’” In the case of mercury, the regulations under Table Z-2 do not specify an acceptable maximum peak above the ACC.

weighted average (TWA).⁶ Further, the OSHA memorandum notes that this error has not been corrected in Section 1910.1000, Table Z-2.

Further, OSHA regulations at Section 1910.1000(e) set forth that compliance with the limits in Table Z-2 must be based on administrative or engineering controls whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures may be used to keep the exposure of employees to air contaminants within the specified limits. Consequently, it appears that it is possible to comply with the OSHA standards by using protective gear for workers without reducing the emission levels from a crushing unit, when it is not feasible to implement control technology. Therefore, merely requiring compliance with the applicable OSHA regulations may not achieve the proposed intent of reducing mercury emissions from used lamp crushing systems. In light of this, the Board believes that the regulations should specify the OSHA mercury exposure limit as an emission standard that must be met by the used lamp crushing systems.

Based on the evidence in the record, the Board proposes to modify the Agency's proposed language to allow crushing of spent mercury-containing lamps to specify that the mercury exposure limits contained in 29 CFR 1910.1000, Table Z-2, measured as an 8-hour TWA, are the emission standards for crushing units, rather than the 90% reduction performance based standard currently found in the Agency's proposed language. Such a modification is supported by the record. In comments, both S.L.R.T. and Beling Consultants suggested that the Board adopt the OSHA exposure limit as the emission standard for crushing units. Additionally, the testing data for crushing units submitted by ComEd and IERG indicates that manufacturers measure the emission control efficiency of the units in terms of the OSHA limits. In light of this, the Board finds that it is appropriate to specify that the mercury exposure limits contained in 29 CFR 1910.1000, Table Z-2, are the emission standards for crushing units.

With regard to the other aspects of the Agency's proposed language that allows crushing, the Board generally finds that these provisions are appropriate and not unduly burdensome. Moreover, the Board finds that these provisions are necessary in order for the Agency to enforce the regulations. Nevertheless, the Board does conclude that the requirement that the handler or transporter verify that the crushing device achieves the emission control standards is overly burdensome and that such information is more aptly obtained from the manufacturer. The Board therefore has modified the notification requirements to require that handlers provide the Agency with information concerning the estimated monthly amount of lamps crushed and the technology employed, including any certification or testing data provided by the manufacturer verifying that the crushing device achieves the emission control standards outlined in the regulations. The Board has also clarified that the notification to the Agency should be done on a quarterly basis.

⁶ Section 1910.1000(b)(1) defines 8-hour TWA limit as follows: "An employee's exposure to any substance listed in Table Z-2, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that substance in Table Z-2."

EXEMPTION FOR *DE MINIMIS* AMOUNTS OF UNIVERSAL
WASTE FROM HAZARDOUS WASTE TESTING REQUIREMENTS

The ISG suggests that provisions be made in the rule for *de minimis* amounts of broken lamps. PC 6 at 2. The proposed rule now would require that any amount of residue from breakage be subjected to a hazardous waste determination and managed as a hazardous waste if it exhibits a hazardous waste characteristic. See Sections 733.113(d)(4) and 733.133(d)(4). The ISG contends that such a requirement would result in substantial waste handling expense for a very small environmental benefit. Moreover, the ISG asserts that the more times the bulbs are handled, the potential for breakage increases. Therefore, the ISG proposes that up to 1% broken used lamps in any off-site shipment to a universal waste handler or destination facility be considered *de minimis* for purposes of this rulemaking. Accordingly, the ISG suggests that the following language change be made in Section 733.113(d)(4)(A) and Section 733.133(d)(4)(A):

In the event that a small quantity handler of universal waste mercury-containing lamps has generated non-de minimis quantities of the following waste, the small quantity handler shall determine whether those wastes ~~the following~~ exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.subpart C:

Further, ISG recommends that the following definition be added to proposed 35 Ill. Adm. Code 733.106:

“De minimis quantity” means, for purposes of 35 Ill. Adm. Code 733.13(d)(4)(A) and 733.133(d)(4)(A), no more than 1%, by weight, of any on-site storage container or shipment of universal waste mercury-containing lamps to an off-site universal waste handler, a destination facility, or foreign destination.

The ISG maintains that *de minimis* amounts of broken lamps in shipments to universal waste handlers or destination facilities will not harm human health or the environment. The ISG further believes that a more “user friendly” regulation will encourage recycling of the used lamps rather than disposal in hazardous waste landfills. PC 6 at 3. It therefore urges the Board to include the above language in the rules.

The Board declines to make the changes suggested by the ISG. In this regard, the Board notes that the ISG has not provided adequate justification in support of the proposed amendments. The ISG suggests that a provision be made in the rule for *de minimis* amounts of broken lamps. However, the proposed language changes apply to waste streams other than just clean-up residues from lamp breakage, *i.e.* materials resulting from a release, cleanup residues from spills, and breakage and other solid waste generated as a result of handling waste lamps. Moreover, since the proposed definition of *de minimis* is based on 1% of the weight of onsite storage containers or a shipment of universal waste, depending on the weight of the container or the size of the shipment, the *de minimis* amount may constitute a significant amount of waste. In light of this, the Board disagrees with the ISG’s contention that the proposed hazardous waste determination requirement may negatively impact the environment.

SUMMARY OF THE PROPOSED RULE

The amendments to 35 Ill. Adm. Code 703, 720, 721, 724, 725, and 728 were made simply to conform to the amendments in Part 733. Therefore, the summary of the rule will concentrate on amendments to Part 733. In Subpart A of Part 733, mercury-containing lamps were added to Section 733.101 in order for mercury-containing lamps to be managed as universal waste. New definitions of electric lamp and mercury-containing lamps were added to Section 733.106. In the same section, mercury-containing lamps were added to the definition of large quantity handler of universal waste, small quantity handler of universal waste, and universal waste. Finally, a new section 733.107 was proposed regarding the applicability of the provisions. Specifically, the new provisions provide that used mercury-containing lamps become waste on the date that the handler permanently removes it from its fixture, and an unused mercury-containing lamp becomes waste on the date that the handler decides to discard it. New provisions have also been added to Sections 733.113(d)(5), 733.133(d)(5), and 733.151 to allow for the crushing of mercury-containing lamps for volume reduction under certain circumstances.

In Sections 733.113(d) and 733.133(d), small and large quantity handlers of universal waste mercury-containing lamps, respectively, are required to manage the waste in a manner so as to prevent releases of the wastes to the environment. Section 733.114(e) sets forth labeling requirements for universal waste mercury-containing lamps. In Sections 733.139 and Section 733.162, mercury-containing lamps were added to the tracking section.

TECHNICAL FEASIBILITY

The Board does not believe that there are any issues regarding technical feasibility which would arise as a result of the proposed regulation. The proposal would not impose any burden on the regulated community to install equipment or to develop new technology. Rather, the proposal would merely require an alternate system of managing spent mercury-containing lamps. The Board therefore finds that the proposed rules are technically feasible.

ECONOMIC REASONABLENESS

One of the goals of Public Act 90-502 was to streamline the waste management practices of generators of used mercury-containing lamps. This would be accomplished by reducing administrative requirements of complying with the RCRA. Thus, the typical generator of universal waste mercury-containing lamps should be able to realize an economic benefit from reduced administrative burdens. This is because the manifesting, record keeping, and other requirements of RCRA are eliminated or lessened for universal wastes, as compared with other RCRA hazardous wastes. PC 4 at 7. Such regulations will help generators of used lamps that are subject to RCRA requirements to reduce their costs of handling those lamps and promote recycling of them. Accordingly, the proposed regulations will reduce the costs of

compliance with the regulations. PC 4 at 6. Based on the evidence presented, the Board finds that the proposed rules are economically reasonable.

CONCLUSION

The Board finds that the proposal is economically reasonable and technically feasible. The Board also finds that the Agency has generally supported the proposal, and the proposal warrants approval for second notice with the changes noted. The Board will proceed with the proposal as published at first notice with the amendments discussed above and as reflected in the attached order.

ORDER

The Board directs the Clerk to cause the filing of the following proposal for second notice with the Joint Committee on Administrative Rules:

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

PART 703
RCRA PERMIT PROGRAM

SUBPART A: GENERAL PROVISIONS

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703.100	Scope and Relation to Other Parts
703.101	Purpose
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703.120	Prohibitions in General
703.121	RCRA Permits
703.122	Specific Inclusions in Permit Program
703.123	Specific Exclusions from Permit Program
703.124	Discharges of Hazardous Waste
703.125	Reapplications
703.126	Initial Applications
703.127	Federal Permits (Repealed)

SUBPART C: AUTHORIZATION BY RULE AND INTERIM STATUS

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703.141	Permits by Rule

703.150	Application by Existing HWM Facilities and Interim Status Qualifications
703.151	Application by New HWM Facilities
703.152	Amended Part A Application
703.153	Qualifying for Interim Status
703.154	Prohibitions During Interim Status
703.155	Changes During Interim Status
703.156	Interim Status Standards
703.157	Grounds for Termination of Interim Status
703.158	Permits for Less Than an Entire Facility
703.159	Closure by Removal
703.160	Procedures for Closure Determination

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703.184	Facility Location Information
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703.187	Solid Waste Management Units
703.188	Other Information
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703.201	Containers
703.202	Tank Systems
703.203	Surface Impoundments
703.204	Waste Piles
703.205	Incinerators that Burn Hazardous Waste
703.206	Land Treatment
703.207	Landfills
703.208	Boilers and Industrial Furnaces Burning Hazardous Waste
703.209	Miscellaneous Units
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SUBPART E: SHORT TERM AND PHASED PERMITS

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703.221	Emergency Permits
703.222	Incinerator Conditions Prior to Trial Burn
703.223	Incinerator Conditions During Trial Burn
703.224	Incinerator Conditions After Trial Burn
703.225	Trial Burns for Existing Incinerators

- 703.230 Land Treatment Demonstration
- 703.231 Research, Development and Demonstration Permits
- 703.232 Permits for Boilers and Industrial Furnaces Burning Hazardous Waste

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section

- 703.240 Permit Denial
- 703.241 Establishing Permit Conditions
- 703.242 Noncompliance Pursuant to Emergency Permit
- 703.243 Monitoring
- 703.244 Notice of Planned Changes (Repealed)
- 703.245 Twenty-four Hour Reporting
- 703.246 Reporting Requirements
- 703.247 Anticipated Noncompliance

SUBPART G: CHANGES TO PERMITS

Section

- 703.260 Transfer
- 703.270 Modification
- 703.271 Causes for Modification
- 703.272 Causes for Modification or Reissuance
- 703.273 Facility Siting
- 703.280 Permit Modification at the Request of the Permittee
- 703.281 Class 1 Modifications
- 703.282 Class 2 Modifications
- 703.283 Class 3 Modifications

703.Appendix A Classification of Permit Modifications

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R82-19, 53 PCB 131, at 7 Ill. Reg. 14289, effective October 12, 1983; amended in R83-24 at 8 Ill. Reg. 206, effective December 27, 1983; amended in R84-9 at 9 Ill. Reg. 11899, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1110, effective January 2, 1986; amended in R85-23 at 10 Ill. Reg. 13284, effective July 28, 1986; amended in R86-1 at 10 Ill. Reg. 14093, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20702, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6121, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13543, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19383, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2584, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13069, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 447, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18477, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6278, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14492, effective August 22, 1990; amended in R90-11 at 15 Ill. Reg. 9616, effective June 17, 1991; amended in R91-1 at 15 Ill.

Reg. 14554, effective September 30, 1991; amended in R91-13 at 16 Ill Reg. 9767, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5774, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20794, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6898, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12392, effective July 29, 1994; amended in R94-5 at 18 Ill. Reg. 18316, effective December 20, 1994; amended in R95-6 at 19 Ill. Reg. 9920, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11225, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 553, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions from Permit Program

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

- a) Generators who accumulate hazardous waste on-site for less than the time periods provided in 35 Ill. Adm. Code 722.134;
- b) Farmers who dispose of hazardous waste pesticides from their own use as provided in 35 Ill. Adm. Code 722.170;
- c) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this Part by 35 Ill. Adm. Code 721.104 or 721.105 (small generator exemption);
- d) Owners or operators of totally enclosed treatment facilities as defined in 35 Ill. Adm. Code 720.110;
- e) Owners and operators of elementary neutralization units or wastewater treatment units as defined in 35 Ill. Adm. Code 720.110;
- f) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
- g) Persons adding absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and 35 Ill. Adm. Code 724.117(b), 724.271 and 724.272 are complied with; and

- h) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that manages the wastes listed below. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.
- 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103; ~~and~~
 - 3) Thermostats, as described in 35 Ill. Adm. Code 733.104; ~~and~~
 - 4) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.

BOARD NOTE: Derived from 40 CFR 270.1(c)(2) (19946), ~~as amended at 60 Fed. Reg. 25542, May 11, 1995. Subsection (h)(4) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).~~

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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

SUBPART B: DEFINITIONS

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
 - 720.131 Solid Waste Determinations
 - 720.132 Boiler Determinations
 - 720.133 Procedures for 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.Appendix A Overview of 40 CFR, Subtitle C Regulations

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22, 45 PCB 317, 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, 53 PCB 131 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, 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. _____, effective _____.

SUBPART B: DEFINITIONS

Section 720.110 Definitions

When used in 35 Ill. Adm. Code 720 through 726 and 728 only, the following terms have the meanings given below:

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

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

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

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

“Administrator” means the Administrator of the U.S. Environmental Protection Agency or the Administrator’s designee.

“Agency” means the Illinois Environmental Protection Agency.

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

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

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

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

“Board” means the Illinois Pollution Control Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

“Corrective action management unit” or “CAMU” means an area within a facility that is designated by the Agency under 35 Ill. Adm. Code 724.Subpart S for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA section 3008(h). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

BOARD NOTE: USEPA must also designate a CAMU until it grants this authority to the Agency. See the note following 35 Ill. Adm. Code 724.652.

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

“Designated facility” means a hazardous waste treatment, storage or disposal facility,

Which:

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

Has received a RCRA permit from USEPA pursuant to 40 CFR 124 and 270 (1992);

Has received a RCRA permit from a state authorized by USEPA pursuant to 40 CFR 271 (1992); or

Is regulated under 35 Ill. Adm. Code 721.106(c)(2) or 266.Subpart F; and

Which has been designated on the manifest by the generator pursuant to 35 Ill. Adm. Code 722.120.

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

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

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

“Director” means the Director of the Illinois Environmental Protection Agency.

“Discharge” or “hazardous waste discharge” means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Disposal facility” means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure. The term disposal facility does not include a

corrective action management unit (CAMU) into which remediation wastes are placed.

“Drip pad” means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation and surface water run-on to an associated collection system at wood preserving plants.

“Electric lamp” means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum.

BOARD NOTE: The definition of “electric lamp” was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

“Elementary neutralization unit” means a device which:

Is used for neutralizing wastes which are hazardous only because they exhibit the corrosivity characteristic defined in 35 Ill. Adm. Code 721.122 or are listed in 35 Ill. Adm. Code 721.Subpart D only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle or vessel in this Section.

“EPA hazardous waste number” or “USEPA hazardous waste number” ~~or~~ ~~“USEPA hazardous waste number”~~ means the number assigned by EPA to each hazardous waste listed in 35 Ill. Adm. Code 721.Subpart D and to each characteristic identified in 35 Ill. Adm. Code 721.Subpart C.

“EPA identification number” or “USEPA identification number” ~~or~~ ~~“USEPA identification number”~~ means the number assigned by USEPA pursuant to 35 Ill. Adm. Code 722 through 725 to each generator, transporter and treatment, storage or disposal facility.

“EPA region” or “USEPA region” means the states and territories found in any one of the following ten regions:

Region I: Maine, Vermont, New Hampshire, Massachusetts, Connecticut and Rhode Island

Region II: New York, New Jersey, Commonwealth of Puerto Rico and the U.S. Virgin Islands

Region III: Pennsylvania, Delaware, Maryland, West Virginia, Virginia and the District of Columbia

Region IV: Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina and Florida

Region V: Minnesota, Wisconsin, Illinois, Michigan, Indiana and Ohio

Region VI: New Mexico, Oklahoma, Arkansas, Louisiana and Texas

Region VII: Nebraska, Kansas, Missouri and Iowa

Region VIII: Montana, Wyoming, North Dakota, South Dakota, Utah and Colorado

Region IX: California, Nevada, Arizona, Hawaii, Guam, American Samoa and Commonwealth of the Northern Mariana Islands

Region X: Washington, Oregon, Idaho and Alaska

“Equivalent method” means any testing or analytical method approved by the Board pursuant to Section 720.120.

“Existing hazardous waste management (HWM) facility” or “existing facility” means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility had commenced construction if the owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction and either:

A continuous on-site, physical construction program had begun or

The owner or operator had entered into contractual obligations -- which could not be ~~cancelled~~canceled or modified without substantial loss -- for physical construction of the facility to be completed within a reasonable time.

“Existing portion” means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

“Existing tank system” or “existing component” means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State and local approvals or permits necessary

to begin physical construction of the site or installation of the tank system and if either

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations -- which cannot be canceled or modified without substantial loss -- for physical construction of the site or installation of the tank system to be completed within a reasonable time.

“Facility” means:

All contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

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

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

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

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

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

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

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

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

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

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

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

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

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

“Incinerator” means any enclosed device that:

Uses controlled flame combustion and neither:

Meets the criteria for classification as a boiler, sludge dryer or carbon regeneration unit, nor

Is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

“Incompatible waste” means a hazardous waste which is suitable for:

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

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

(See 35 Ill. Adm. Code 725. Appendix E for examples.)

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

Cement kilns

Lime kilns

Aggregate kilns

Phosphate kilns

Coke ovens

Blast furnaces

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

Titanium dioxide chloride process oxidation reactors

Methane reforming furnaces

Pulping liquor recovery furnaces

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

Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20%, as generated

Any other such device as the Agency determines to be an “Industrial Furnace” on the basis of one or more of the following factors:

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

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

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

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

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

Other relevant factors.

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

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

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

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

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

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

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

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

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

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

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

“LDS” means leak detection system.

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

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

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

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

“Manifest” means the shipping document originated and signed by the generator which contains the information required by 35 Ill. Adm. Code 722.Subpart B.

“Manifest document number” means the USEPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.

“Mercury-containing lamp” means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.

BOARD NOTE: The definition of “mercury-containing lamp” was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

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

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

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

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

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

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

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

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

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

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

Control of emission of the gaseous combustion products.

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

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

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

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

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

“Personnel” or “facility personnel” means all persons who work at or oversee the operations of a hazardous waste facility and whose actions or failure to act

may result in noncompliance with the requirements of 35 Ill. Adm. Code 724 or 725.

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

It is a new animal drug under Section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 U.S.C. § 321(v)), incorporated by reference in Section 720.111,

It is an animal drug that has been determined by regulation of the federal Secretary of Health and Human Services pursuant to FFDCA Section 512, incorporated by reference in Section 720.111, to be an exempted new animal drug, or

It is an animal feed under FFDCA Section 201(w) (21 U.S.C. § 321(w)), incorporated by reference in Section 720.111 that bears or contains any substances described in either of the two preceding subsections of this definition.

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

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

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

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

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

“Qualified groundwater scientist” means a scientist or engineer who has received a baccalaureate or postgraduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields, as demonstrated by state registration, professional certifications or completion of accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport.

BOARD NOTE: “State registration” includes, but is not limited to, registration as a professional engineer with the Department of Professional Regulation, pursuant to 225 ILCS 325/1 and 68 Ill. Adm. Code 1380. “Professional certification” includes, but is not limited to, certification under the certified ground water professional program of the National Ground Water Association.

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

“Remediation waste” means all solid and hazardous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris that contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic which are managed for the purpose of implementing corrective action requirements under 35 Ill. Adm. Code 724.201 and RCRA Section 3008(h). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing RCRA sections 3004(v) or 3008(h) for releases beyond the facility boundary.

“Replacement unit” means a landfill, surface impoundment or waste pile unit from which all or substantially all of the waste is removed, and which is subsequently reused to treat, store or dispose of hazardous waste.

“Replacement unit” does not include a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with a closure or corrective action plan approved by USEPA or the Agency.

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

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

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

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

“SIC Code” means Standard Industrial Code as defined in Standard Industrial Classification Manual, incorporated by reference in Section 720.111.

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

“Sludge dryer” means any enclosed thermal treatment device which is used to dehydrate sludge and which has a total thermal input, excluding the heating value of the sludge itself, of 2500 Btu/lb or less of sludge treated on a wet weight basis.

“Small Quantity Generator” means a generator which generates less than 1000 kg of hazardous waste in a calendar month.

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

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

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

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

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

“Surface impoundment” or “impoundment” means a facility or part of a facility which is a natural topographic depression, manmade excavation or diked area

formed primarily of earthen materials (although it may be lined with manmade materials) which is designed to hold an accumulation of liquid wastes or wastes containing free liquids and which is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds and lagoons.

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

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

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

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

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

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

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

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

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

“Treatability study” means:

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

Whether the waste is amenable to the treatment process.

What pretreatment (if any) is required.

The optimal process conditions needed to achieve the desired treatment.

The efficiency of a treatment process for a specific waste or wastes. Or,

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

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

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

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

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

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

“Unfit-for-use tank system” means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of

storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

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

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

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

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

Thermostats, as described in 35 Ill. Adm. Code 733.104; and-

Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.
BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

“Universal waste handler” means either of the following:

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

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

“Universal waste handler” does not mean:

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

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

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

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

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

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

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

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

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

“Wastewater treatment unit” means a device which:

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

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

Meets the definition of tank or tank system in this Section.

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

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

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

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

(Source: Amended at 22 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

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AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code May 17, 1982; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 PCB 247, 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, 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. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.109 Requirements for Universal Waste

The wastes listed in this Section are exempt from regulation under 35 Ill. Adm. Code 702 through 705, 722 through 726, and 728, except as specified in 35 Ill. Adm. Code 733, and are therefore not fully regulated as hazardous waste. The wastes listed in this Section are subject to regulation under 35 Ill. Adm. Code 733:

- a) Batteries, as described in 35 Ill. Adm. Code 733.102;
- b) Pesticides, as described in 35 Ill. Adm. Code 733.103; ~~and~~
- c) Thermostats, as described in 35 Ill. Adm. Code 733.104; and-
- d) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 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

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AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R82-19, 53 PCB 131, 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, 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. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 724.101 Purpose, Scope and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste.
- b) The standards in this Part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.
- c) The requirements of this Part apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1431-1434, 33 U.S.C. 1401) only to

the extent they are included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141. A “RCRA permit” is a permit required by Section 21(f) of the Environmental Protection Act and 35 Ill. Adm. Code 703.121.

BOARD NOTE: This Part does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea.

- d) The requirements of this Part apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued by the Agency pursuant to Section 12(g) of the Environmental Protection Act only to the extent they are required by 35 Ill. Adm. Code 704.Subpart F.

BOARD NOTE: This Part does apply to the above-ground treatment or storage of hazardous waste before it is injected underground.

- e) The requirements of this Part apply to the owner or operator of a POTW (publicly owned treatment works) that treats, stores, or disposes of hazardous waste only to the extent included in a RCRA permit by rule granted to such a person under 35 Ill. Adm. Code 703.141.
- f) This subsection corresponds with 40 CFR 264.1(f), which provides that the federal regulations do not apply to T/S/D activities in authorized states, except under limited, enumerated circumstances. This statement maintains structural consistency with USEPA rules.
- g) The requirements of this Part do not apply to:
- 1) The owner or operator of a facility permitted by the Agency under Section 21 of the Environmental Protection Act to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105.

BOARD NOTE: The owner or operator may be subject to 35 Ill. Adm. Code 807 and may have to have a supplemental permit under 35 Ill. Adm. Code 807.210.
 - 2) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4) (except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 35 Ill. Adm. Code 739).
 - 3) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134.

- 4) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170.
- 5) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110.
- 6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Table T) or reactive (D003) waste to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 724.117(b).
- 7) This subsection corresponds with 40 CFR 264.1(g)(7), reserved by USEPA. This statement maintains structural consistency with USEPA rules.
- 8) Immediate response:
 - A) Except as provided in subsection (g)(8)(B) below, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste when discharged.
 - B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of 724.Subparts C and D.
 - C) Any person that is covered by subsection (g)(8)(A) above and that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities.

- 9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less.
- 10) The addition of absorbent materials to waste in a container (as defined in 35 Ill. Adm. Code 720) or the addition of waste to absorbent material in a container, provided these actions occur at the time waste is first placed in the container, and Sections 724.117(b), 724.271, and 724.272 are complied with.
- 11) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:
- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - B) Pesticides, as described in 35 Ill. Adm. Code 733.103; ~~and~~
 - C) Thermostats, as described in 35 Ill. Adm. Code 733.104; and-
 - D) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.
BOARD NOTE: Subsection (g)(11)(D) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).
- h) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728.

(Source: Amended at 22 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

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SUBPART B: GENERAL FACILITY STANDARDS

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SUBPART I: USE AND MANAGEMENT OF CONTAINERS

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725.271 Condition of Containers
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SUBPART O: INCINERATORS

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SUBPART W: DRIP PADS

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725.953	Standards: Compressors
725.954	Standards: Pressure Relief Devices in Gas/Vapor Service

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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
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725.Appendix E	Examples of Potentially Incompatible Waste

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18, 51 PCB 831, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9, at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, 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. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 725.101 Purpose, Scope and Applicability

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.
- b) Except as provided in Section 725.980(b), the standards in this Part and 35 Ill. Adm. Code 724.652 and 724.653 apply to owners and operators of facilities that treat, store, or dispose of hazardous waste that have fully complied with the requirements for interim status under Section 3005(e) of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.) and 35 Ill. Adm. Code 703, until either a permit is issued under Section 3005 of the Resource Conservation and Recovery Act or Section 21(f) of the Environmental Protection Act, or until applicable closure and post-closure responsibilities under this Part are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980, that have failed to provide timely notification as required by Section 3010(a) of RCRA or that have failed to file Part A of the

Permit Application, as required by 40 CFR 270.10(e) and (g) or 35 Ill. Adm. Code 703.150 and 703.152. These standards apply to all treatment, storage, or disposal of hazardous waste at these facilities after November 19, 1980, except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721.

BOARD NOTE: As stated in Section 3005(a) of RCRA, after the effective date of regulations under that Section (i.e., 40 CFR 270 and 124) the treatment, storage, or disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions until final administrative disposition of the owner's and operator's permit application is made. 35 Ill. Adm. Code 703.140 et seq. provide that a permit is deemed issued under Section 21(f)(1) of the Environmental Protection Act under conditions similar to federal interim status.

- c) The requirements of this Part do not apply to:
- 1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act (16 U.S.C. 1431-1434; 33 U.S.C. 1401);

BOARD NOTE: This Part applies to the treatment or storage of hazardous waste before it is loaded into an ocean vessel for incineration or disposal at sea, as provided in subsection (b) above.
 - 3) The owner or operator of a POTW (publicly owned treatment works) that treats, stores or disposes of hazardous waste;

BOARD NOTE: The owner or operator of a facility under subsections (c)(1) through (c)(3) is subject to the requirements of 35 Ill. Adm. Code 724 to the extent they are included in a permit by rule granted to such a person under 35 Ill. Adm. Code 702 and 703 or are required by 35 Ill. Adm. Code 704.Subpart F.
 - 5) The owner or operator of a facility permitted, licensed, or registered by Illinois to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this Part by 35 Ill. Adm. Code 721.105;
 - 6) The owner or operator of a facility managing recyclable materials described in 35 Ill. Adm. Code 721.106(a)(2) through (a)(4), except to the extent that requirements of this Part are referred to in 35 Ill. Adm. Code 726.Subparts C, F, G, or H or 35 Ill. Adm. Code 739;

- 7) A generator accumulating waste on-site in compliance with 35 Ill. Adm. Code 722.134, except to the extent the requirements are included in 35 Ill. Adm. Code 722.134;
- 8) A farmer disposing of waste pesticides from the farmer's own use in compliance with 35 Ill. Adm. Code 722.170;
- 9) The owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- 10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 35 Ill. Adm. Code 720.110, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 35 Ill. Adm. Code 728.Table T) or reactive (D003) waste in order to remove the characteristic before land disposal, the owner or operator must comply with the requirements set out in Section 725.117(b);
- 11) Immediate response:
 - A) Except as provided in subsection (c)(11)(B) below, a person engaged in treatment or containment activities during immediate response to any of the following situations:
 - i) A discharge of a hazardous waste;
 - ii) An imminent and substantial threat of a discharge of a hazardous waste;
 - iii) A discharge of a material that becomes a hazardous waste when discharged.
 - B) An owner or operator of a facility otherwise regulated by this Part must comply with all applicable requirements of 725.Subparts C and D.
 - C) Any person that is covered by subsection (c)(11)(A) above that continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Part and 35 Ill. Adm. Code 702, 703, and 705 for those activities;
- 12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;

- 13) The addition of absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or the addition of waste to the absorbent material in a container, provided that these actions occur at the time that the waste is first placed in the containers and Sections 725.117(b), 725.271, and 725.272 are complied with;
- 14) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) that handles any of the wastes listed below is subject to regulation under 35 Ill. Adm. Code 733 when handling the following universal wastes:
- A) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - B) Pesticides, as described in 35 Ill. Adm. Code 733.103;~~and~~
 - C) Thermostats, as described in 35 Ill. Adm. Code 733.104; and-
 - D) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.
BOARD NOTE: Subsection (c)(14)(D) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).
- d) The following hazardous wastes must not be managed at facilities subject to regulation under this Part: hazardous waste numbers F020, F021, F022, F023, F026, or F027 unless:
- 1) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
 - 2) The waste is stored in tanks or containers;
 - 3) The waste is stored or treated in waste piles that meet the requirements of 35 Ill. Adm. Code 724.350(c) and all other applicable requirements of 725.Subpart L;
 - 4) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 725.452; or
 - 5) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 725.483.

- e) This Part applies to owners and operators of facilities that treat, store, or dispose of hazardous wastes referred to in 35 Ill. Adm. Code 728, and the 35 Ill. Adm. Code 728 standards are considered material conditions or requirements of the interim status standards of this Part.
- f) Other bodies of regulations may apply a person, facility, or activity, such as 35 Ill. Adm. Code 809 (special waste hauling), 35 Ill. Adm. Code 807 or 810 through 817 (solid waste landfills), 35 Ill. Adm. Code 848 or 849 (used and scrap tires), or 35 Ill. Adm. Code 1420 through 1422 (~~potentially~~ potentially infectious medical waste), depending on the provisions of those other regulations.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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

PART 728
 LAND DISPOSAL RESTRICTIONS

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- 728.Table U Universal Treatment Standards (UTS)

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R87-5 at 11 Ill. Reg. 19354, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13046, effective July 29, 1988; amended in R89-1 at 13 Ill. Reg. 18403, effective November 13, 1989; amended in R89-9 at 14 Ill. Reg. 6232, effective April 16, 1990; amended in R90-2 at 14 Ill. Reg. 14470, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16508, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9462, effective June 17, 1991; amendment withdrawn at 15 Ill. Reg. 14716, October 11, 1991; amended in R91-13 at 16 Ill. Reg. 9619, effective June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5727, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20692, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6799, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12203, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17563, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9660, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11100, August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 783, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 728.101 Purpose, Scope and Applicability

- a) This Part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.
- b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. Code 721, the requirements of this Part apply to persons that generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage, and disposal facilities.
- c) Restricted wastes may continue to be land disposed as follows:
 - 1) Where persons have been granted an extension to the effective date of a prohibition under Subpart C or pursuant to Section 728.105, with respect to those wastes covered by the extension;

- 2) Where persons have been granted an exemption from a prohibition pursuant to a petition under Section 728.106, with respect to those wastes and units covered by the petition;
- 3) Wastes that are hazardous only because they exhibit a hazardous characteristic and that are otherwise prohibited from land disposal under this Part are not prohibited from land disposal if the wastes:
 - A) Are disposed into a nonhazardous or hazardous waste injection well, as defined in 35 Ill. Adm. Code 704.106(a);
 - B) Do not exhibit any prohibited characteristic of hazardous waste at the point of injection; and
 - C) If, at the point of generation, the injected wastes include D001 High TOC subcategory wastes or D012-D017 pesticide wastes that are prohibited under Section 728.117(c), those wastes have been treated to meet the treatment standards of Section 728.140 prior to injection.
- d) This Part does not affect the availability of a waiver under Section 121(d)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. §§ 9601 et seq.).
- e) The following hazardous wastes are not subject to any provision of this Part:
 - 1) Wastes generated by small quantity generators of less than 100 kg of non-acute hazardous waste or less than 1 kg of acute hazardous waste per month, as defined in 35 Ill. Adm. Code 721.105;
 - 2) Waste pesticides that a farmer disposes of pursuant to 35 Ill. Adm. Code 722.170;
 - 3) Wastes identified or listed as hazardous after November 8, 1984, for which USEPA has not promulgated land disposal prohibitions or treatment standards;
 - 4) De minimis losses to wastewater treatment systems of commercial chemical product or chemical intermediates that are ignitable (D001) or corrosive (D002) or that are organic constituents that exhibit the characteristic of toxicity (D012-D043) and that contain underlying hazardous constituents, as defined in Section 728.102 of this Part, are not considered to be prohibited wastes. “De minimis” is defined as losses from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers or leaks

from pipes, valves, or other devices used to transfer materials); minor leaks of process equipment, storage tanks, or containers; leaks from well-maintained pump packings and seals; sample purging; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing;

- 5) Land disposal prohibitions for hazardous characteristic wastes do not apply to laboratory wastes displaying the characteristic of ignitability (D001), corrosivity (D002), or organic toxicity (D012 through D043) that are mixed with other plant wastewaters at facilities whose ultimate discharge is subject to regulation under the CWA (including wastewaters at facilities that have eliminated the discharge of wastewater), provided that the annualized flow of laboratory wastewater into the facility's headwork does not exceed one percent or that the laboratory wastes' combined annualized average concentration does not exceed one part per million in the facility's headworks.
- f) A universal waste handler or universal waste transporter (as defined in 35 Ill. Adm. Code 720.110) is exempt from Sections 728.107 and 268.150 for the hazardous wastes listed below. Such a handler or transporter is subject to regulation under 35 Ill. Adm. Code 733.
- 1) Batteries, as described in 35 Ill. Adm. Code 733.102;
 - 2) Pesticides, as described in 35 Ill. Adm. Code 733.103; ~~and~~
 - 3) Thermostats, as described in 35 Ill. Adm. Code 733.104; and-
 - 4) Mercury-containing lamps, as described in 35 Ill. Adm. Code 733.107.
BOARD NOTE: Subsection (f)(4) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).
- g) This Part is cumulative with the land disposal restrictions of 35 Ill. Adm. Code 729. The Environmental Protection Agency (Agency) shall not issue a wastestream authorization pursuant to 35 Ill. Adm. Code 709 or Sections 22.6 or 39(h) of the Environmental Protection Act [415 ILCS 5/22.6 or 39(h)] unless the waste meets the requirements of this Part as well as 35 Ill. Adm. Code 729.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 733
 STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

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733.106	Definitions
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SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

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733.117	Response to Releases
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SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

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SUBPART E: STANDARDS FOR DESTINATION FACILITIES

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SUBPART F: IMPORT REQUIREMENTS

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SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section	
733.180	General
733.181	Factors for Petitions to Include Other Wastes

AUTHORITY: Implementing Sections 22.4 and 22.23a and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/22.4, 22.23a, and 27].

SOURCE: Adopted in R95-20 at 20 Ill. Reg. 11291, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 944, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 733.101 Scope

- a) This Part establishes requirements for managing the following:
 - 1) Batteries, as described in Section 733.102;
 - 2) Pesticides, as described in Section 733.103; ~~and~~
 - 3) Thermostats, as described in Section; ~~and~~

4) Mercury-containing lamps, as described in Section 733.107.
BOARD NOTE: Subsection (a)(4) of this Section was added pursuant to
Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502,
effective August 19, 1997).

- b) This Part provides an alternative set of management standards in lieu of regulation under 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.106 Definitions

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

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

“Electric lamp” means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum.

BOARD NOTE: The definition of “electric lamp” was added pursuant to
Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective
August 19, 1997).

“FIFRA” means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136-136y).

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

“Large quantity handler of universal waste” means a universal waste handler (as defined in this Section) that accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, ~~or~~ thermostats, or mercury-containing lamps, calculated collectively) at any time. This designation as a large quantity

handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

BOARD NOTE: Mercury-containing lamps were added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

“Mercury-containing lamp” means an electric lamp into which mercury is purposely introduced by the manufacturer for the operation of the lamp. Mercury-containing lamps include, but are not limited to, fluorescent lamps and high-intensity discharge lamps.

BOARD NOTE: The definition of “mercury-containing lamp” was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

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

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

It is a new animal drug under Section 201(v) of the Federal Food, Drug and Cosmetic Act (FFDCA; 21 U.S.C. § 321(v)), incorporated by reference in Section 720.111,

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

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

BOARD NOTE: The second exception of corresponding 40 CFR 273.6 reads as follows: “Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug”. This is very similar to the language of Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7

U.S.C. § 136(u)). The three exceptions, taken together, appear intended not to include as “pesticide” any material within the scope of federal Food and Drug Administration regulation. The Board codified this provision with the intent of retaining the same meaning as its federal counterpart while adding the ~~definiteness~~ definiteness required under Illinois law.

“Small quantity handler of universal waste” means a universal waste handler (as defined in this Section) that does not accumulate more than 5,000 kilograms total of universal waste (batteries, pesticides, ~~or~~ thermostats, or mercury-containing lamps, calculated collectively) at any time.

BOARD NOTE: Mercury-containing lamps were added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

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

“Universal waste” means any of the following hazardous wastes that are subject to the universal waste requirements of this Part:

Batteries, as described in Section 733.102;

Pesticides, as described in Section 733.103; ~~and~~

Thermostats, as described in Section 733.104; ~~and~~

Mercury-containing lamps, as described in Section 733.107.

BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

“Universal waste handler” means either of the following:

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

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

“Universal waste handler” does not mean:

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

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

“Universal waste transfer facility” means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

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

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.107 Applicability--Mercury-Containing Lamps

- a) Mercury-containing lamps covered under this Part. The requirements of this Part apply to persons managing mercury-containing lamps, except those listed in subsection (b) of this Section.
- b) Mercury-containing lamps not covered under this Part. The requirements of this Part do not apply to persons managing the following mercury-containing lamps:
 - 1) Mercury-containing lamps that are not yet wastes under 35 Ill. Adm. Code 721, including those that do not meet the criteria for waste generation in subsection (c) of this Section.
 - 2) Mercury-containing lamps that are not hazardous waste. A mercury-containing lamp is not a hazardous waste if it does not exhibit one or more of the characteristics identified in 35 Ill. Adm. Code 721.Subpart C.
- c) Generation of waste mercury-containing lamps.
 - 1) A used mercury-containing lamp becomes a waste on the date the handler permanently removes it from its fixture.

- 2) An unused mercury-containing lamp becomes a waste on the date the handler decides to discard it.

BOARD NOTE: Section 733.107 was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Added at 22 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS FOR SMALL QUANTITY HANDLERS

Section 733.113 Waste Management

- a) Universal waste batteries. A small quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - 2) A small quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
 - A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or

G) Removing electrolyte from batteries.

3) A small quantity handler of universal waste that removes electrolyte from batteries, or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above, shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.

A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it is subject to all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.

B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste ~~landfills~~ regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

b) Universal waste pesticides. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:

- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
- 2) A container that does not meet the requirements of subsection (b)(1) above, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);
- 3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 265.300, and 265.301; or
- 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage,

spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- c) Universal waste thermostats. A small quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A small quantity handler of universal waste shall contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
 - 2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler follows each of the following procedures:
 - A) It removes the ampules in a manner designed to prevent breakage of the ampules;
 - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
 - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

- G) It stores removed ampules in closed, non-leaking containers that are in good condition;
 - H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- 3) Required hazardous waste determination and further waste management.
- A) A small quantity handler of universal waste that removes mercury-containing ampules from thermostats shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:
 - i) Mercury or clean-up residues resulting from spills or leaks; or
 - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).
 - B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and shall manage it is subject to 35 Ill. Adm. Code 722.
 - C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste ~~landfills~~ landfills regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Universal waste mercury-containing lamps. A small quantity handler of universal waste shall manage universal waste mercury-containing lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- 1) A small quantity handler of universal waste mercury-containing lamps shall, at all times:
 - A) Contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and
 - B) Contain broken lamps in packaging that will prevent releases of lamp fragments and residues.
- 2) A small quantity handler of universal waste mercury-containing lamps shall, at all times, manage waste lamps in a manner designed to minimize lamp breakage.
- 3) A small quantity handler of universal waste mercury-containing lamps shall immediately contain all releases of lamp fragments and residues from broken lamps.
- 4) A small quantity handler of universal wastes shall undertake hazardous waste determination and further waste management as follows:
 - A) A small quantity handler of universal waste mercury-containing lamps shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:
 - i) Any materials resulting from a release;
 - ii) Clean-up residues from spills or breakage; or
 - iii) Other solid waste generated as a result of handling waste lamps.
 - B) If the material, residue, or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered to be the generator of the material, residue, or other hazardous waste and shall manage it in accordance with 35 Ill. Adm. Code 722.
 - C) If the material, residue, or other solid waste is not hazardous, the handler may manage the waste in any manner that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.

- 5) Small quantity handlers of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:
- A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m³ when measured on the basis of time weighted average over an 8-hour period;
 - B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
 - C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;
 - D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
 - F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.

BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.114 Labeling and Marking

A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

- a) Universal waste batteries (i.e., each battery) or a container in which the batteries are contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste-Battery(ies)”, “Waste Battery(ies)”, or “Used Battery(ies)”;
- b) A container (or multiple container package unit), tank, transport vehicle, or vessel in which recalled universal waste pesticides, as described in Section 733.103(a)(1), are contained must be labeled or marked clearly as follows:
 - 1) The label that was on or accompanied the product as sold or distributed; and
 - 2) The words “Universal Waste-Pesticide(s)” or “Waste-Pesticide(s)”;
- c) A container, tank, or transport vehicle, or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:
 - (1) Pesticide labeling:
 - A) The label that was on the product when purchased, if still legible;
 - B) If using the labels described in subsection (c)(1)(A) above is not feasible, the appropriate label as required under USDOT regulation 49 CFR 172; or
 - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) above is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and
 - 2) The words “Universal Waste-Pesticide(s)” or “Waste-Pesticide(s)”; ~~and~~
- d) Universal waste thermostats (i.e., each thermostat) or a container in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste-Mercury Thermostat(s)”, or “Waste Mercury Thermostat(s)”, or “Used Mercury Thermostat(s)”; and.

- e) Universal waste mercury-containing lamps or a container in which the lamps are contained shall be labeled or clearly marked with any one of the following phrases: “Universal Waste--Mercury-Containing Lamp(s)”, “Waste Mercury-Containing Lamp(s)” or “Used Mercury-Containing Lamp(s)”.
BOARD NOTE: Subsection (e) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.118 Off-Site Shipments

- a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of 733.Subpart D while transporting the universal waste.
- c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a small quantity handler of universal waste shall package, label, mark, and placard the shipment and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 172 through 180.
- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.
- e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:
- 1) Receive the waste back when notified that the shipment has been rejected, or
 - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A small quantity handler of universal waste may reject a shipment containing universal waste or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a

shipment, it shall contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler shall perform either of the following actions:

- 1) Send the shipment back to the originating handler, or
 - 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Agency (Bureau of Land, Illinois EPA, 10021 North Grand Avenue East, ~~P.O. Box 19276~~, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.
- h) If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state, or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste ~~landfills~~ regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS FOR LARGE QUANTITY HANDLERS

Section 733.132 Notification

- a) Written notification of universal waste management.
 - 1) Except as provided in subsections (a)(2) and (a)(3) below, a large quantity handler of universal waste shall have sent written notification of universal waste management to the Agency, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.
 - 2) A large quantity handler of universal waste that has already notified USEPA or the Agency of its hazardous waste management activities and

has received a USEPA Identification Number is not required to renotify under this Section.

- 3) A large quantity handler of universal waste that manages recalled universal waste pesticides, as described in Section 733.103(a)(1), and that has sent notification to USEPA or the Agency, as required by 40 CFR 165, is not required to notify for those recalled universal waste pesticides under this Section.
- b) This notification must include:
- 1) The universal waste handler's name and mailing address;
 - 2) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
 - 3) The address or physical location of the universal waste management activities;
 - 4) A list of all of the types of universal waste managed by the handler (e.g. batteries, pesticides, thermostats, and mercury-containing lamps);
 - 5) A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (e.g. batteries, pesticides, thermostats, mercury-containing lamps) the handler is accumulating above this quantity.

BOARD NOTE: At 60 Fed. Reg. 25520-21 (May 11, 1995), USEPA explained ~~that~~ the generator or consolidation point may use USEPA Form 8700-12 for notification. (To obtain USEPA Form 8700-12 call the Agency at 217-782-6761.) USEPA further explained that it is not necessary for the handler to aggregate the amounts of waste at multiple non-contiguous sites for the purposes of the 5,000 kilogram determination. Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.133 Waste Management

- a) Universal waste batteries. A large quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- 1) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- 2) A large quantity handler of universal waste may conduct the following activities, as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
 - A) Sorting batteries by type;
 - B) Mixing battery types in one container;
 - C) Discharging batteries so as to remove the electric charge;
 - D) Regenerating used batteries;
 - E) Disassembling batteries or battery packs into individual batteries or cells;
 - F) Removing batteries from consumer products; or
 - G) Removing electrolyte from batteries.
- 3) A large quantity handler of universal waste that removes electrolyte from batteries or that generates other solid waste (e.g., battery pack materials, discarded consumer products) as a result of the activities listed above shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C.
 - A) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to 35 Ill. Adm. Code 722.
 - B) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance

with applicable federal, state or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste ~~landfills~~ regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- b) Universal waste pesticides. A large quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides must be contained in one or more of the following:
- 1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
 - 2) A container that does not meet the requirements of subsection (b)(1) above, provided that the unacceptable container is overpacked in a container that does meet the requirements of subsection (b)(1);
 - 3) A tank that meets the requirements of 35 Ill. Adm. Code 725.Subpart J, except for 35 Ill. Adm. Code 725.297(c), 725.300, and 725.301; or
 - 4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
- c) Universal waste thermostats. A large quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste shall contain any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the thermostat, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

- 2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler follows each of the following procedures:
 - A) It removes the ampules in a manner designed to prevent breakage of the ampules;
 - B) It removes ampules only over or in a containment device (e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);
 - C) It ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - D) It immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 35 Ill. Adm. Code 722.134;
 - E) It ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
 - F) It ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
 - G) It stores removed ampules in closed, non-leaking containers that are in good condition;
 - H) It packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation.
- 3) Required hazardous waste determination and further waste management.
 - A) A large quantity handler of universal waste that removes mercury-containing ampules from thermostats shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:

- i) Mercury or clean-up residues resulting from spills or leaks; or
 - ii) Other solid waste generated as a result of the removal of mercury-containing ampules (e.g., remaining thermostat units).
- B) If the mercury, residues, or other solid waste exhibits a characteristic of hazardous waste, it must be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered the generator of the mercury, residues, or other waste and is subject to 35 Ill. Adm. Code 722.
- C) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste ~~landfills~~ landfills regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

- d) Universal waste mercury-containing lamps. A large quantity handler of universal waste shall manage universal waste mercury-containing lamps in a manner that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- 1) A large quantity handler of universal waste mercury-containing lamps shall, at all times:
 - A) Contain unbroken lamps in packaging that will minimize breakage during normal handling conditions; and
 - B) Contain broken lamps in packaging that will prevent releases of lamp fragments and residues.
 - 2) A large quantity handler of universal waste mercury-containing lamps shall, at all times, manage waste lamps in a manner designed to minimize lamp breakage.

- 3) A large quantity handler of universal waste mercury-containing lamps shall immediately contain all releases of lamp fragments and residues from broken lamps.
- 4) A large quantity handler of universal waste shall undertake a hazardous waste determination and further waste management as follows:
- A) A large quantity handler of universal waste mercury-containing lamps shall determine whether the following exhibit a characteristic of hazardous waste identified in 35 Ill. Adm. Code 721.Subpart C:
- i) Any materials resulting from a release;
- ii) Clean-up residues from spills or breakage; or
- iii) Other solid waste generated as a result of handling waste lamps.
- B) If the material, residue, or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of 35 Ill. Adm. Code 702 through 705, 720 through 726, and 728. The handler is considered to be the generator of the material, residue, or other hazardous waste and shall manage it in accordance with 35 Ill. Adm. Code 722.
- C) If the material, residue, or other solid waste is not hazardous, the handler may manage the waste in any manner that is in compliance with applicable federal, State, or local solid (nonhazardous) waste regulations.
- 5) Large quantity handlers of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:
- A) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m³ when measured on the basis of time weighted average over an 8-hour period;
- B) The handler must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:

- i) Name and address of the handler;
 - ii) Estimated monthly amount of lamps crushed; and
 - iii) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
- C) The handler immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;
- D) The handler ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- E) The handler ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- F) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.
BOARD NOTE: Subsection (d) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.134 Labeling and Marking

A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as follows:

- a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: “Universal Waste-Battery(ies)” ; or “Waste Battery(ies)” ; or “Used Battery(ies)” ;

- b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Section 733.103(a)(1) are contained must be labeled or marked clearly as follows:
- 1) The label that was on or accompanied the product as sold or distributed; and
 - 2) The words “Universal Waste-Pesticide(s)” or “Waste-Pesticide(s)”;
- c) A container, tank, or transport vehicle or vessel in which unused pesticide products, as described in Section 733.103(a)(2), are contained must be labeled or marked clearly as follows:
- 1) Pesticide labeling:
 - A) The label that was on the product when purchased, if still legible;
 - B) If using the labels described in subsection (c)(1)(A) above is not feasible, the appropriate label as required under the USDOT regulation 49 CFR 172; or
 - C) If using the labels described in subsections (c)(1)(A) and (c)(1)(B) above is not feasible, another label prescribed or designated by the pesticide collection program; and
 - 2) The words “Universal Waste-Pesticide(s)” or “Waste-Pesticide(s)”; ~~and~~
- d) Universal waste thermostats (i.e., each thermostat) or a container or tank in which the thermostats are contained must be labeled or marked clearly with any one of the following phrases: “Universal Waste-Mercury Thermostat(s)”, or “Waste Mercury Thermostat(s)”, or “Used Mercury Thermostat(s)”; and.
- e) Universal waste mercury-containing lamps or a container in which the lamps are contained shall be labeled or clearly marked with any one of the following phrases: “Universal Waste-Mercury-Containing Lamp(s)”, “Waste Mercury-Containing Lamp(s)” or “Used Mercury-Containing Lamp(s)”.
BOARD NOTE: Subsection (e) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

- a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.
- b) If a large quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of 733.Subpart D while transporting the universal waste.
- c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a large quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable USDOT regulations under 49 CFR 172 through 180;
- d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.
- e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:
 - 1) Receive the waste back when notified that the shipment has been rejected, or
 - 2) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that it has received from another handler. If a handler rejects a shipment or a portion of a shipment, it shall contact the originating handler to notify the originating handler of the rejection and to discuss reshipment of the load. The handler shall perform either of the following actions:
 - 1) Send the shipment back to the originating handler, or
 - 2) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- g) If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Agency (Bureau of Land, Illinois EPA, 10021 North Grand Avenue

~~East, P.O. Box 19276~~, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Agency will provide instructions for managing the hazardous waste.

- h) If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste landfills regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.139 Tracking Universal Waste Shipments

- a) Receipt of shipments. A large quantity handler of universal waste shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:
- 1) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;
 - 2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps);
 - 3) The date of receipt of the shipment of universal waste.
- b) Shipments off-site. A large quantity handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent must include the following information:
- 1) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;
 - 2) The quantity of each type of universal waste sent (e.g., batteries, pesticides, thermostats, mercury-containing lamps);

- 3) The date the shipment of universal waste left the facility.
- c) Record retention.
- 1) A large quantity handler of universal waste shall retain the records described in subsection (a) above for at least three years from the date of receipt of a shipment of universal waste.
 - 2) A large quantity handler of universal waste shall retain the records described in subsection (b) above for at least three years from the date a shipment of universal waste left the facility.

BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART D: STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS

Section 733.151 Prohibitions

A universal waste transporter is prohibited from the following:

- a) Disposing of universal waste; ~~and~~
- b) Diluting or treating universal waste, except by responding to releases as provided in Section 733.154 or as provided in subsection (c).
- c) Transporters of mercury containing universal waste lamps may treat mercury containing lamps for volume reduction at the site where they were generated under the following conditions:
 - 1) The lamps must be crushed in a closed system designed and operated in such a manner that any emission of mercury from the crushing system shall not exceed 0.1 mg/m³ when measured on the basis of time weighted average over an 8-hour period;
 - 2) The transporter must provide notification of crushing activity to the Agency quarterly, in a form as provided by the Agency. Such notification must include the following information:
 - A) Name and address of the handler;

- B) Estimated monthly amount of lamps crushed; and
- C) The technology employed for crushing, including any certification or testing data provided by the manufacturer of the crushing unit verifying that the crushing device achieves the emission controls required in subsection (d)(5)(A) of this Section;
- 3) The transporter immediately transfers any material recovered from a spill or leak to a container that meets the requirements of 40 CFR 262.34, and has available equipment necessary to comply with this requirement;
- 4) The transporter ensures that the area in which the lamps are crushed is well-ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
- 5) The transporter ensures that employees crushing lamps are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers; and
- 6) The crushed lamps are stored in closed, non-leaking containers that are in good condition (e.g., no severe rusting, apparent structural defects or deterioration), suitable to prevent releases during storage, handling and transportation.
BOARD NOTE: Subsection (c) of this Section was added pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART E: STANDARDS FOR DESTINATION FACILITIES

Section 733.161 Off-Site Shipments

- a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility, or a foreign destination.
- b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, it shall contact the shipper to notify the shipper of the rejection and to

discuss reshipment of the load. The owner or operator of the destination facility shall perform either of the following actions:

- 1) Send the shipment back to the original shipper, or
 - 2) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.
- c) If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility shall immediately notify the Agency (Bureau of Land, Illinois EPA, 10021 North Grand Avenue East, ~~P.O. Box 19276~~, Springfield, Illinois 62794-9276 (telephone: 217-782-6761)) of the illegal shipment, and provide the name, address, and phone number of the shipper. The Agency will provide instructions for managing the hazardous waste.
- d) If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid (nonhazardous) waste regulations.

BOARD NOTE: See generally the Act and 35 Ill. Adm. Code 807 through 817 to determine whether additional facility siting, special waste, or nonhazardous waste ~~landfills~~ regulations apply to the waste. Consult the ordinances of relevant units of local government to determine whether local requirements apply.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 733.162 Tracking Universal Waste Shipments

- a) The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received must include the following information:
- 1) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
 - 2) The quantity of each type of universal waste received (e.g., batteries, pesticides, thermostats, mercury-containing lamps);
 - 3) The date of receipt of the shipment of universal waste.

- b) The owner or operator of a destination facility shall retain the records described in subsection (a) above for at least three years from the date of receipt of a shipment of universal waste.

BOARD NOTE: Mercury-containing lamps were added as universal waste pursuant to Section 22.23a of the Act [415 ILCS 5/22.23a] (see P.A. 90-502, effective August 19, 1997).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART G: PETITIONS TO INCLUDE OTHER WASTES

Section 733.180 General

- a) Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment as follows:
- 1) If USEPA has already added the waste or category of waste to 40 CFR 273: by identical-in-substance rulemaking, under Section 22.4(a) of the Act, 35 Ill. Adm. Code 101 and 102, 35 Ill. Adm. Code 720.120; or
 - 2) If USEPA has not added the waste or ~~category~~ category of waste to 40 CFR 273: by general rulemaking, under Sections 22.4(b) and 27 of the Act, 35 Ill. Adm. Code 101 and 102, this Subpart, and 35 Ill. Adm. Code 720.120 and 720.123.

BOARD NOTE: The Board cannot add a hazardous waste or category of hazardous waste to this Part by general rulemaking until USEPA either authorizes the Illinois universal waste regulations or otherwise authorizes the Board to add new categories of universal waste. The Board may, however, add a waste or category of waste by identical-in-substance rulemaking.

- b) Petitions for identical-in-substance rulemaking.
- 1) Any petition for identical-in-substance rulemaking under subsection (a)(1) above must include a copy of the ~~the~~ Federal Register notice(s) of adopted amendments in which USEPA promulgated the addition(s) to 40 CFR 273. The Board will evaluate any petition for identical-in-substance rulemaking based on the Federal Register notice(s).
 - 2) If the petitioner desires expedited Board consideration of the proposed ~~amendments~~ amendments to this Part (i.e., adoption within one year of the

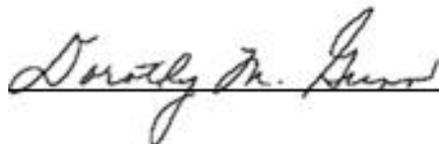
date of the Federal Register notice), it must explicitly request expedited consideration and set forth the arguments in favor of such consideration.

- c) Petitions for general rulemaking.
 - 1) To be successful using the general rulemaking procedure under subsection (a)(2) above, the petitioner must demonstrate to the satisfaction of the Board that each of the following would be true of regulation under the universal waste regulations of this Part:
 - A) It would be appropriate for the waste or category of waste;
 - B) It would improve management practices for the waste or category of waste; and
 - C) It would improve implementation of the hazardous waste program.
 - 2) The petition must include the information required by 35 Ill. Adm. Code 720.120(b). The petition should also address as many of the factors listed in Section 733.181 as are appropriate for the waste or waste category addressed in the petition.
 - 3) The Board will evaluate petitions for general rulemaking and grant or deny the requested relief using the factors listed in Section 733.181. The decision will be based on the weight of evidence showing that regulation under this Part would fulfill the requirements of subsection (c)(1) above.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 5th day of February 1998, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board