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From: [McGill, Richard](#)
To: [Brown, Don](#)
Cc: [Beacom, Joan](#); [Bilbruck, Shannon O.](#)
Subject: FW: Technical comments on Issue 19 IIS rulemakings
Date: Friday, May 8, 2026 10:35:33 AM
Attachments: [35-726 RG-P JCAR \(ks edits\) 05.06.26.docx](#)
[35-725 RG-P JCAR \(ks edits\) 05.06.26.docx](#)
[35-724 RG-P JCAR \(ks edits\) 05.06.26.docx](#)
[35-723 RG-P JCAR \(ks edits\) 05.06.26.docx](#)
[35-721RG-P Agency \(ks edits\) 05.06.26.docx](#)
[35-720RG-P Agency 05.04.26 \(ks edits\) 05.06.26.docx](#)
[35-703RG-P Agency \(ks edits\) 05.06.26.docx](#)
[image001.png](#)

Good morning, Mr. Clerk,

Please docket this email from JCAR staff, including its attachments, as a public comment in R25-12.

Thank you.

Richard R. McGill, Jr.
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From: Rivas, Tobias <TobiasR@ilga.gov>
Sent: Thursday, May 7, 2026 2:21 PM
To: McGill, Richard <Richard.McGill@illinois.gov>
Subject: [External] Technical comments on Issue 19 IIS rulemakings

Hi Richard,

See the attached technical notes from Kim. I don't know exactly where these are in the process right now, but it would be great if these issues could be addressed prior to adoption.

Thanks!

Toby Armas-Rivas
Joint Committee on Administrative Rules
(217) 785-2254
TobiasR@ilga.gov

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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RCRA PERMIT PROGRAM

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703.APPENDIX A Classification of Permit Modifications

AUTHORITY: Implementing Sections 7.2, 22.4, and 22.23e and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, 22.23e, and 27].

SOURCE: Adopted in R82-19 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

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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. 7632, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17930, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2153, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9381, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9765, effective June 20, 2000; amended in R01-21/R01-23 at 25 Ill. Reg. 9313, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6539, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3496, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12683, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5966, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2845, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 487, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11672, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18505, effective November 12, 2010; amended in R13-15 at 37 Ill. Reg. 17659, effective October 24, 2013; amended in R16-7 at 40 Ill. Reg. 11271, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 20993, effective November 19, 2018; amended in R19-11 at 43 Ill. Reg. 5777, effective May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15055, effective September 3, 2020; amended in R25-22 at 49 Ill. Reg. 11329, effective August 27, 2025; amended in R26-4 at 50 Ill. Reg. _____, effective _____.

SUBPART B: PROHIBITIONS

Section 703.123 Specific Exclusions and Exemptions from Permit Program

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

- a) A generator that accumulates hazardous waste on site in compliance with all of the conditions for exemption provided in 35 Ill. Adm. Code 722.114 through 722.117;
- b) A farmer that disposes of hazardous waste pesticides from the farmer's own use, as provided in 35 Ill. Adm. Code 722.170;

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- c) A person that owns or operates a facility solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under this Part by 35 Ill. Adm. Code 721.104 or 722.114 (VSQG exemption);
- d) An owner or operator of a totally enclosed treatment facility, as defined in 35 Ill. Adm. Code 720.110;
- e) An owner or operator of an elementary neutralization unit or wastewater treatment unit, as defined in 35 Ill. Adm. Code 720.110;
- f) A transporter that stores manifested shipments of hazardous waste in containers that meet the requirements of 35 Ill. Adm. Code 722.130 at a transfer facility for a period of ten days or less;
- g) A person that adds absorbent material to waste in a container (as defined in 35 Ill. Adm. Code 720.110) or a person that adds 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 in subsections (h)(1) through (h)(6). 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;
 - 3) Mercury-containing equipment, as described in 35 Ill. Adm. Code 733.104;
 - 4) Lamps, as described in 35 Ill. Adm. Code 733.105;
 - 5) Aerosol cans, as described in 35 Ill. Adm. Code 733.106; and
 - 6) Paint and paint-related wastes, as described in 35 Ill. Adm. Code 733.107.

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- i) This subsection (i) corresponds with 40 CFR 270.1(c)(2)(ix), which applies only to a facility outside Illinois. This statement maintains structural consistency with the corresponding USEPA rule.
- j) Reverse Distributors Accumulating Potentially Creditable Hazardous Waste Pharmaceuticals and Evaluated Hazardous Waste Pharmaceuticals, as defined in Section 726.600. Reverse distributors are subject to regulation under Subpart P of 35 Ill. Adm. Code 726 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.
- k) [Recyclers of ignitable spent refrigerants subject to regulation under Section 726 subpart Q.](#)

BOARD NOTE: Derived from 40 CFR 270.1(c)(2).

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART D: APPLICATIONS | SUBPART D: APPLICATIONS

Commented [SKA1]: delete

Section 703.204 Waste Piles

For a facility that stores or treats hazardous waste in waste piles, except as otherwise provided in 35 Ill. Adm. Code 724.101, the Part B application must include the following:

- a) A list of hazardous wastes placed or to be placed in each waste pile;
- b) If an exemption is sought to 35 Ill. Adm. Code 724.351 and Subpart F of 35 Ill. Adm. Code 724, as provided by 35 Ill. Adm. Code 724.350(c) or 724.190(b)(2), an explanation of how the requirements of 35 Ill. Adm. Code 724.350(c) will be complied with or detailed plans and an engineering report describing how the requirements of 35 Ill. Adm. Code 724.190(b)(2) will be met;
- c) Detailed plans and an engineering report describing how the pile is designed and is or will be constructed, operated and maintained to meet the requirements of 35 Ill. Adm. Code 724.119, 724.351, 724.352, and 724.353, addressing the following items:
 - 1) Liner, leak detection, and removal system.

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- A) The liner system (except for an existing portion of a waste pile), if the waste pile must meet the requirements of 35 Ill. Adm. Code 724.351(a). If an exemption from the requirement for a liner is sought, as provided by 35 Ill. Adm. Code 724.351(b), the owner or operator must submit a copy of the Board order granting an adjusted standard pursuant to 35 Ill. Adm. Code 724.351(b);
 - B) The double liner and leak (leachate) detection, collection and removal system, if the waste pile must meet the requirements of 35 Ill. Adm. Code 724.351(c). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by 35 Ill. Adm. Code 724.351(d), (e), or (f), submit appropriate information;
 - C) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;
 - D) The CQA plan, if required under 35 Ill. Adm. Code 724.119;
 - E) Proposed action leakage rate, with rationale, if required under 35 Ill. Adm. Code 724.352, and response action plan, if required under 35 Ill. Adm. Code 724.353;
- 2) Control of run-on;
 - 3) Control of run-off;
 - 4) Management of collection and holding units associated with run-on and run-off control systems; and
 - 5) Control of wind dispersal of particulate matter, where applicable;
- d) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of 35 Ill. Adm. Code 724.354(a), (b), and (c). This information must be included in the inspection plan submitted under Section 703.183(e);

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- e) If the treatment is carried out on or in the pile, details about the process and equipment used, and the nature and quality of the residuals;
- f) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the ~~the~~ applicant will comply with requirements of 35 Ill. Adm. Code 724.356;
- g) If incompatible wastes, or incompatible wastes and materials, will be placed in a waste pile, an explanation of how the applicant will comply with 35 Ill. Adm. Code 724.357;
- h) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under 35 Ill. Adm. Code 724.358(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how the applicant will comply with 35 Ill. Adm. Code 724.410(a) and (b). This information must be included in the closure plan and, where applicable, the post-closure plan submitted under Section 703.183(m); and
- i) A waste management plan for hazardous waste numbers F020, F021, F022, F023, F026, and F027 describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of 35 Ill. Adm. Code 724.359. This submission must address the following items as specified in that Section:
 - 1) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
 - 2) The attenuative properties of underlying and surrounding soils or other materials;
 - 3) The mobilizing properties of other materials co-disposed with these wastes; and
 - 4) The effectiveness of additional treatment, design, or monitoring techniques.

BOARD NOTE: Derived from 40 CFR 270.18 (2005).

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(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART F: PERMIT CONDITIONS OR DENIAL

Section 703.246 Reporting Requirements

The following reports required by 35 Ill. Adm. Code 724 must be submitted in addition to those required by 35 Ill. Adm. Code 702.152 (reporting requirements):

- a) Manifest discrepancy report: if a significant discrepancy in a manifest is discovered, the permittee must: ~~attempt to reconcile the discrepancy. If not resolved within 15 days, the permittee must submit a letter report including a copy of the manifest to the Agency (see 35 Ill. Adm. Code 724.172).~~
 - 1) ~~Attempt to reconcile the discrepancy. If not resolved within 20 days, the permittee must submit a letter report including a copy of the manifest to the Agency (see 35 Ill. Adm. Code 724.172).~~
 - 2) ~~Beginning on December 1, 2025, attempt to reconcile the discrepancy. If not resolved within 20 days, the permittee must immediately submit a Discrepancy Report to the USEPA e-manifest System describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.~~

- b) Unmanifested waste report. ~~A permittee must: if hazardous waste is received without an accompanying manifest, the permittee must submit an unmanifested waste report to the Agency within 15 days of receipt of unmanifested waste. (see 35 Ill. Adm. Code 724.176)~~
 - 1) ~~Submit the Unmanifested Waste Report to the Agency within 15 days of receipt of unmanifested waste. (See 35 Ill. Adm. Code 724.176)~~
 - 2) ~~Beginning on December 1, 2025, submit an electronic Unmanifested Waste Report in the USEPA e-Manifest system for submission to the USEPA within 15 days of receipt of unmanifested waste. (See 35 Ill. Adm. Code 724.176)~~

- c) Facility activities report: a facility activities report must be submitted covering facility activities as described in 35 Ill. Adm. Code 724.175.

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BOARD NOTE: Derived from 40 CFR 270.30(l)(7) through (l)(9) (2005).

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 720

HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations and Non-Waste Determinations
720.131	Solid Waste Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.134	Non-Waste Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

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- 720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
- 720.142 Notification Requirement for Hazardous Secondary Materials
- 720.143 Legitimate Recycling of Hazardous Secondary Materials
- 720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, 22.4, and 22.23e and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, 22.23e, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended

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in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7189, effective March 13, 2014; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1542, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11286, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 21215, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 446, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 5817, effective May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15067, effective September 3, 2020; amended in R21-13, R22-13, R24-4 at 48 Ill. Reg. 9723, effective June 20, 2024; amended in R24-12 at 48 Ill. Reg. 16776, effective November 7, 2024; amended in R25-22 at 49 Ill. Reg. 11338, effective August 27, 2025; amended in R25-12 at 50 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 720.102 Availability of Information; Confidentiality of Information

- a) Availability and confidentiality of information is governed by Illinois law, including Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.
- b) Except as provided under subsections (c) and (d), any person who submits information to the Board or the Agency under this Part or 35 Ill. Adm. Code 721 through 728 may assert a claim of business confidentiality by following the procedures in 35 Ill. Adm. Code 130. Information covered by the claim will be disclosed by the Board or the Agency only to the extent, and by means of the procedures, provided in 35 Ill. Adm. Code 130.
- c) Public Disclosure of Hazardous Waste Manifest Documents
 - 1) No claim of business confidentiality may be asserted by any person with respect to information entered on a hazardous waste manifest (USEPA Form 8700-22), a Hazardous Waste Manifest Continuation Sheet (USEPA

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Form 8700-22A), or an e-Manifest format that may be prepared and used in accordance with 35 Ill. Adm. Code 722.120(a)(3).

- 2) USEPA has stated that it will make any e-Manifest that is prepared and used under 35 Ill. Adm. Code 722.120(a)(3), or any paper manifest that is submitted to the e-Manifest System under 35 Ill. Adm. Code 724.171(a)(6) or 725.171(a)(6) available to the public under this Section when the electronic or paper manifest is a complete and final document. E-Manifests and paper manifests submitted to the e-Manifest System are complete and final documents, and they become publicly available information, after 90 days have passed since the delivery to the designated facility of the hazardous waste shipment identified in the manifest.

d) Claims of Confidentiality

- 1) A person may not assert any claim of business confidentiality with respect to information contained in cathode ray tube export documents prepared, used, and submitted under 35 Ill. Adm. Code 721.139(a)(5) and 721.141(a), and for the information contained in hazardous waste export, import, and transit documents prepared, used, and submitted under 35 Ill. Adm. Code 722.182, 722.183, 722.184, 723.120, 724.112, 724.171, 725.112, 725.171, and 727.171, whether submitted electronically into USEPA's Waste Import Export Tracking System or in paper format. [After January 22, 2025, no claim of business confidentiality may be asserted by any person with respect to information contained in hazardous secondary material export documents prepared, used and submitted under Section 721.104\(a\)\(25\), whether submitted electronically into the USEPA's Waste Import Export Tracking System or in paper format.](#)
- 2) USEPA will make any cathode ray tube export documents prepared, used, and submitted under 35 Ill. Adm. Code 721.139(a)(5) and 721.141(a) and any hazardous waste export, import, and transit documents prepared, used, and submitted under 35 Ill. Adm. Code 722.182, 722.183, 722.184, 723.120, 724.112, 724.171, 725.112, 725.171, and 727.171 available to the public under this Section when USEPA considers these electronic or paper documents to be final documents. USEPA considers these submitted electronic and paper documents related to hazardous waste exports, imports, and transits and cathode ray tube exports to be final documents on March 1 of the calendar year after the related cathode ray tube exports or hazardous waste exports, imports, or transits occur. [After](#)

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January 22, 2025, USEPA will make available to the public under this section any hazardous secondary material export documents prepared, used and submitted under Section 721.104(a)(25) on March 1 of the calendar year after the related hazardous secondary material exports occur, when these documents are considered by the USEPA to be final documents.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.110 Definitions

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

"Aboveground tank" means a device meeting the definition of tank that is situated so 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) can be visually inspected.

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

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

"Acute hazardous waste" means hazardous waste that meets the listing criteria in 35 Ill. Adm. Code 721.111(a)(2) and therefore is either listed in 35 Ill. Adm. Code 721.131 with the assigned hazard code of (H) or is listed in 35 Ill. Adm. Code 721.133(e).

BOARD NOTE: These are USEPA hazardous waste numbers F020, F021, F022, F023, F026, and F027, and all USEPA hazardous waste numbers having the prefix "P".

"Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

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"Aerosol can" means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder, and fitted with a self-closing release device allowing the gas to eject the contents.

"Agency" means the Illinois Environmental Protection Agency.

"Airbag waste" means any hazardous waste airbag modules or hazardous waste airbag inflators.

"Airbag waste collection facility" means any facility that receives airbag waste from airbag handlers subject to regulation under 35 Ill. Adm. Code 721.104(j) and that accumulates the waste for more than ten days.

"Airbag waste handler" means any person, by site, that generates airbag waste that is subject to regulation under 35 Ill. Adm. Code 721.104(j).

"Ancillary equipment" means any devices, like piping, fittings, flanges, valves, and pumps, that are used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

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

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

"Battery" means a device that consists of one or more electrically connected electrochemical cells that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus those connections (electrical and mechanical) that are 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.

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

Boiler by physical characteristics:

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

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

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

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

"Carbon dioxide stream" means carbon dioxide that has been captured from an emission source (e.g., a power plant), plus incidental associated substances

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derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

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

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

"Central accumulation area" means any on-site area where hazardous waste is accumulating in units subject to either 35 Ill. Adm. Code 722.116 (for an SQG) or 35 Ill. Adm. Code 722.117 (for an LQG). A central accumulation area at an eligible academic entity that chooses to operate under Subpart K of 35 Ill. Adm. Code 722 is also subject to 35 Ill. Adm. Code 722.311 when accumulating unwanted material or hazardous waste.

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

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

"Contained" means held in a unit (including a land-based unit, as defined in this Section) that meets either of the following containment situations:

Containment situation 1 (non-hazardous waste containment):

The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for

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the hazardous secondary materials, to prevent unpermitted releases of hazardous secondary materials to the environment.

"Unpermitted releases" are releases that are not covered by a permit (e.g., a permit to discharge to water or air) and may include releases through surface transport by precipitation run-off, releases to soil and groundwater, windblown dust, fugitive air emissions, and catastrophic unit failures;

The unit is properly labeled or otherwise has a system (like a log) to immediately identify the hazardous secondary materials in the unit; and

The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit, is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

Containment situation 2 (hazardous waste containment):

Hazardous secondary materials in units that meet the applicable requirements of 35 Ill. Adm. Code 724 or 725 are presumptively contained.

"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 Subpart DD of 35 Ill. Adm. Code 724 and Subpart DD of 35 Ill. Adm. Code 725.

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

"Corrosion expert" means a person who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal

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tanks. The person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"CRT collector" means a person that receives used, intact CRTs for recycling, repair, resale, or donation.

"CRT exporter" means any person in the United States that initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for the export.

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

"CRT processing" means conducting the following activities:

Receiving broken or intact CRTs;

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

Sorting or otherwise managing glass removed from CRT monitors.

"Designated facility" means either of the following entities:

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

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

The facility has received a RCRA permit from USEPA under 40 CFR 124 and 270;

The facility has received a RCRA permit from a state authorized by USEPA under 40 CFR 271; or

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The facility is regulated under 35 Ill. Adm. Code 721.106(c)(2) or Subpart F of 35 Ill. Adm. Code 726; or

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

If a waste is destined to a facility in a state other than Illinois that has been authorized by USEPA under 40 CFR 271, but that 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 the 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 managing that category of universal waste.

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

"Dioxins and furans" means tetra-, penta-, hexa-, hepta-, and octa-chlorinated dibenzodioxins and furans.

"Director" means the Director of the Illinois Environmental Protection Agency.

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

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste or any of its constituent 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

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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.

"Electronic import-export reporting compliance date" means the date that USEPA will announce in the Federal Register, on or after which exporters, importers, and receiving facilities will be required to submit certain export and import related documents to USEPA using USEPA's Waste Import Export Tracking System, or its successor system.

BOARD NOTE: A compliance date in Illinois regulations is limited to a date certain on or after the Board has adopted the date by rulemaking. Adoption by rulemaking of the electronic import-export reporting compliance date can occur only after USEPA has made its announcement in the Federal Register. Until the Board has incorporated a date certain by rulemaking, the Board intends that no "electronic import-export reporting compliance date" will apply in the context of the Illinois rules. The federal electronic import-export reporting compliance date named by USEPA, however, may apply as provided by federal law.

"Electronic manifest" or "e-Manifest" means the electronic format of the hazardous waste manifest that is obtained from USEPA's national e-Manifest System and transmitted electronically to the e-Manifest System, and that is the legal equivalent of USEPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

"Electronic Manifest System" or "e-Manifest System" means USEPA's national information technology system through which the e-Manifest may be obtained, completed, transmitted, and distributed to users of the e-Manifest System and to regulatory agencies.

"Elementary neutralization unit" means a device that meets the following:

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

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

"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 under Section 720.120.

"Existing hazardous waste management (HWM) facility" or "existing facility" means a facility that was in operation or for which construction commenced on or before November 19, 1980. A facility commenced construction if the owner or operator obtained the federal, State, and local approvals or permits necessary to begin physically constructing the facility and either of the following occurred:

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A continuous on-site, physical construction program began; or

The owner or operator entered contractual obligations that could not be canceled or modified without substantial loss for physically constructing 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 RCRA 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 was in operation, or for which installation was commenced, on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, State, and local approvals or permits necessary to begin physically constructing the site or installing the tank system and if either of the following is met:

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

The owner or operator entered contractual obligations that cannot be canceled or modified without substantial loss for physically constructing the site or installing the tank system to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. These situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency

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response may include in-place render-safe procedures, treatment, or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in completing an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include United States Department of Defense (USDOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and USDOD-certified civilian or contractor personnel and other federal, State, or local government or civilian personnel who are similarly trained in explosives or munitions emergency responses.

"Facility" means the following:

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

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

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

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

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"Federal, State, and local approvals or permits necessary to begin physically constructing" 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 compliance 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 722.116 and 722.117.

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

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

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

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

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

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

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

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

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

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

"Incinerator" means any enclosed device that:

Uses controlled flame combustion, and the device:

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

Is not listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

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

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

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

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

"Individual generator site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generator site, like a large

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manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generator site if the site or property is contiguous.

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

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Any other device that the Agency determines to be an industrial furnace based on 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.

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

"Inground tank" means a device meeting the definition of tank with any portion of the tank wall situated within the ground, so that the ground prevents visually inspecting that external surface area of the tank.

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

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

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

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"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 installing tank systems.

"Intermediate facility" means any facility that stores hazardous secondary materials for more than ten days and that is neither a hazardous secondary material generator nor a reclaimer of hazardous secondary material.

"International shipment" means transporting hazardous waste into or out of the jurisdiction of the United States.

"Lamp" or "universal waste lamp" means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, or infrared regions of the electromagnetic spectrum. Examples of common universal waste lamps include fluorescent, high intensity discharge, neon, mercury vapor, high-pressure sodium, and metal halide lamps.

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

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; these 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 that is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit (CAMU).

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

"Large quantity generator" or "LQG" means a generator that generates any of the following amounts of material in a calendar month:

Greater than or equal to 1,000 kg (2,200 lbs) of non-acute hazardous waste;

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Greater than 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); or

Greater than 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

"LDS" means leak detection system.

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

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

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

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

"Manifest" means the shipping document USEPA Form 8700-22 (including, if necessary, USEPA Form 8700-22A), or the e-Manifest, originated and signed in compliance with the applicable requirements of 35 Ill. Adm. Code 722 through 727.

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

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

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

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

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

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

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

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

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

"No free liquids", as used in 35 Ill. Adm. Code 721.104(a)(26) and (b)(18), means that solvent-contaminated wipes may not contain free liquids, as determined by Method 9095B (Paint Filter Liquids Test), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", incorporated by reference in Section 720.111, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method that the Agency has determined by permit condition is equivalent to Method 9095B.

"Non-acute hazardous waste" means hazardous waste that is not acute hazardous waste, as defined in this Section.

"On-ground tank" means a device meeting the definition of tank whose bottom is situated on the same level as the adjacent surrounding surfaces so that visually inspecting the external tank bottom is not possible.

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

"Open burning" means combusting any material without the following characteristics:

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Controlling combustion air to maintain adequate temperature for efficient combustion;

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

Controlling emission of the gaseous combustion products.
(See also "incineration" and "thermal treatment".)

"Operator" means the person responsible for the overall operating of a facility.

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

"Paint" means a pigmented or unpigmented powder coating, or a pigmented or unpigmented mixture of binder and suitable liquid, that forms an adherent coating when applied to a surface. Powder coating is a surface coating that is applied as a dry powder and is fused into a continuous coating film through the use of heat.

"Paint" includes architectural paint as defined in the Paint Stewardship Act but does not include other types of coatings such as industrial original equipment or specialty coatings. [415 ILCS 5/22.23e]

"Paint-related waste" is (i) material contaminated with paint that results from the packaging of paint, wholesale and retail operations, paint manufacturing, and paint application or removal activities or (ii) material derived from the reclamation of paint-related wastes that is recycled in a manner other than burning for energy recovery or used in a manner constituting disposal. [415 ILCS 5/22.23e]

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

["Paper manifest submissions" mean submissions to the paper processing center of the USEPA e-Manifest system by facility owners or operators, of the data from the designated facility copy of a paper manifest, USEPA Form 8700-22, or a paper Continuations Sheet, USEPA form 8700-22A. Such submissions may be made by submitting image files from paper manifests or continuation sheets in compliance](#)

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[with 40 CFR 264.1311\(b\), or by submitting both an image file and data file in compliance with procedures in 40 CFR 264.1311\(c\).](#)

"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 not complying with 35 Ill. Adm. Code 724 or 725.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest or intended for use as a plant regulator, defoliant, or desiccant, other than any article that meets 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(c);

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

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

BOARD NOTE: The second exception of corresponding 40 CFR 260.10 reads as follows: "Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug". This is very similar to the language of section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 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.

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"Physical construction" or "physically constructing" (RCRA) means excavating, moving earth, erecting forms or structures, or similar activity to prepare an HWM facility for accepting hazardous waste.

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

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

"Point source" means any discernible, confined, and discrete conveyance, including 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 certification, or completing accredited university courses that enable the individual to make sound professional judgments regarding groundwater monitoring and contaminant rate and transport. BOARD NOTE: State registration includes registration as a professional engineer with the Department of Professional Regulation under 225 ILCS 325 and 68 Ill. Adm. Code 1380. Professional certification includes certification under the certified groundwater professional program of the National Ground Water Association.

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

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

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"Recognized trader" means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

"Regional Administrator" means the Regional Administrator for the USEPA region in which the facility is located or the Regional Administrator's designee.

"Remanufacturing" means processing a higher-value hazardous secondary material to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

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

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

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which substantially all waste is removed, and that 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 compliance with a closure or corrective action plan approved by USEPA or the Agency.

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

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"Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

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

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

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

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

"Small quantity generator" or "SQG" means a generator that generates the following amounts of material in a calendar month:

Greater than 100 kg (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste;

Less than or equal to 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); and

Less than or equal to 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

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

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"Solvent-contaminated wipe" means the following:

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

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

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

The wipe exhibits only the hazardous waste characteristic of ignitability found in 35 Ill. Adm. Code 721.121 due to the presence of one or more solvents that are not listed in 35 Ill. Adm. Code 721.

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

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

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

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

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

"Sump" means any pit or reservoir that meets the definition of tank and those troughs or trenches connected to it that serve to collect hazardous waste for transport

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to hazardous waste storage, treatment, or disposal facilities; except that, as used in the landfill, surface impoundment, and waste pile rules, sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

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

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

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

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

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

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

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

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

"Transport vehicle" means a motor vehicle or rail car used for transporting 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 transporting hazardous waste off-site by air, rail, highway, or water.

"Treatability study" means the following:

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

Whether the waste is amenable to the treatment process;

What pretreatment (if any) is required;

The optimal process conditions needed to achieve the desired treatment;

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

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

Also included in this definition for 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.

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

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

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well, if 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;

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

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

Aerosol cans, as described in 35 Ill. Adm. Code 733.106; and

Paint and paint-related wastes, as described in 35 Ill. Adm. Code 733.107.

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"Universal waste handler" means either of the following:

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

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

"Universal waste handler" does not mean either of the following:

A person that treats (except under the provisions of Section 733.113(a) or (c) or 733.133(a) or (c)), disposes of, or recycles (except under 35 Ill. Adm. Code 733.113(e) or 733.133(e)) universal waste; or

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

"Universal waste transporter" means a person engaged in transporting universal waste off-site 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 because of this use is contaminated by physical or chemical impurities.

"USEPA" or "EPA" means the United States Environmental Protection Agency.

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

"USEPA identification number" or "USEPA ID number" is the unique alphanumeric identifier that USEPA assigns a hazardous waste generator; transporter; treatment, storage, or disposal facility; or reclamation facility upon notification complying with section 3010 of RCRAU.S.C..

"User of the Electronic Manifest System" or "user of the e-Manifest System" means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person or entity that meets both of the following conditions:

The person or entity must use a manifest to comply with any federal or state requirement to track the shipment, transportation, and receipt of either of the following:

hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or

rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

The person or entity elects to use either of the following:

the e-Manifest System to obtain, complete and transmit an e-Manifest format supplied by the USEPA e-Manifest System; or

the paper manifest form and submits to the e-Manifest System for data processing purposes a paper copy of the manifest (or data from the paper copy), in compliance with 35 Ill. Adm. Code 724.171(a)(2)(E) or 725.171(a)(2)(E).

A paper copy submitted for data processing purposes is submitted for data exchange purposes only and is not the official copy of record for legal purposes.

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"USPS" means the United States Postal Service.

"Very small quantity generator" or "VSQG" means a generator that generates less than or equal to the following amounts of material in a calendar month:

100 kg (220 lbs) of nonacute hazardous waste;

1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e); and

100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill. Adm. Code 721.131 or 721.133(e).

"Vessel" includes every description of watercraft used or capable of being used for transporting on the water.

"Wastewater treatment unit" means a device that:

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

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

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

"Water (bulk shipment) " means transporting bulk hazardous waste 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" means "underground injection".

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

"Zone of engineering control" means an area under the control of the owner or operator that, upon detecting 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 50 Ill. Reg. _____, effective _____)

Section 720.111 References

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

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

ACGME. Available from the Accreditation Council for Graduate Medical Education, 401 North Michigan Avenue, Suite 2000, Chicago, IL 60611, 312-755-5000, www.acgme.org:

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

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:
www.acgme.org/Portals/0/PDFs/ab_ACGMEglossary.pdf.

ACI. Available from the American Concrete Institute, 38800 Country Club Dr., Farmington Hills, MI 48331-3439:

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

ANSI. Available from the American National Standards Institute, 1899 L Street, N.W., 11th Floor, Washington, DC 20036, 202-293-8020.
www.ansi.org:

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

API. Available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005, (855) 999-9870, www.api.org :

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

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

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

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

ASME. Available from the American Society of Mechanical Engineers, Two Park Avenue, New York, NY 10016-5990, 800-843-2763, <https://www.asme.org>:

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

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

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ASTM International. Available from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959, 877-909-ASTM or 610-832-9500, www.astm.org:

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

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

ASTM D 93-80, "Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester", approved 1980, USEPA-approved for 35 Ill. Adm. Code 721.121.

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

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

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

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

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

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

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

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

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

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

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

ASTM D 3828-97, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 1997, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-98, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 1998, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-02, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2002, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-05, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2005, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

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ASTM D 3828-07, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2007, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-07a, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2007, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-09, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2009, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-12, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2012, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-12a, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2012, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-16a, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2016, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-16, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2016, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 3828-16a, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester", approved 2016, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 8174-18, "Standard Test Methods for Finite Flash Point Determination of Liquid Wastes by Small-Scale Closed Cup Tester", approved 2018, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM D 8175-18, "Standard Test Methods for Finite Flash Point Determination of Liquid Wastes by Pensky-Martens Closed Cup

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Tester”, approved 2018, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

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

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

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

ASTM E 681-85, “Standard Practice for Concentration Limits of Flammability of Chemicals (Vapors and Gases)”, approved 1985, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 681-98, “Standard Practice for Concentration Limits of Flammability of Chemicals (Vapors and Gases)”, approved 1998, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 681-01, “Standard Practice for Concentration Limits of Flammability of Chemicals (Vapors and Gases)”, approved 2001, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 681-04, “Standard Practice for Concentration Limits of Flammability of Chemicals (Vapors and Gases)”, approved 2004, reapproved 2015, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 681-09, “Standard Practice for Concentration Limits of Flammability of Chemicals (Vapors and Gases)”, approved 1009, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM E 681-09(2015), “Standard Practice for Concentration Limits of Flammability of Chemicals (Vapors and Gases)”,

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approved 1009, reapproved 2015, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

ASTM G 21-70 (1984a), "Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi", approved 1970, referenced in 35 Ill. Adm. Code 724.414 and 725.414.

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

GPO. Available from the Superintendent of Documents, U.S. Government Publishing Office, 732 Capitol Street, N.W., Washington, DC 20401-0001, 202-512-1800, www.gpo.gov:

Standard Industrial Classification Manual (1987), referenced in 35 Ill. Adm. Code 702.110 and Section 720.110.

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

ISO. Available from the International Organization for Standardization, BIBC II, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland (phone: +41 22 749 01 11; www.iso.org/store.html):

International Standard ISO 3166-1:2013, "Codes for the representation of names of countries and their subdivisions—Part 1: Country code", Third edition (2013), referenced in 35 Ill. Adm. Code 722.183 and 722.184. Latest Board search for updated version: July 2020.

BOARD NOTE: ISO maintains a web page with a free on-line list of country codes accessible at www.iso.org/obp/ui/#search.

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NACE. Available from the National Association of Corrosion Engineers, 15835 Park Ten Place, Houston, TX 77084, 281-228-6200, www.nace.org:

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

NFPA. Available from the National Fire Protection Association, P.O. Box 9101, Quincy, MA 02269-9101, 800-344-3555, www.nfpa.org:

“Flammable and Combustible Liquids Code”, NFPA 30 (1977), referenced in 35 Ill. Adm. Code 722.116.

“Flammable and Combustible Liquids Code”, NFPA 30 (1981), referenced in 35 Ill. Adm. Code 722.116.

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

“Flammable and Combustible Liquids Code”, NFPA 30 (1987), referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, 726.211, and 727.290.

“Flammable and Combustible Liquids Code”, NFPA 30 (2003), as supplemented by TIA 03-1 (2004), and corrected by Errata 30-03-01 (2004), referenced in 35 Ill. Adm. Code 721.298, 722.116, 724.298, 725.298, 726.211, and 727.290.

“Standard System for the Identification of the Hazards of Materials for Emergency Response”, NFPA 704 (2012), referenced in 35 Ill. Adm. Code 722.114 and 722.116.

USEPA, NSCEP. National Service Center for Environmental Publications, <https://www.epa.gov/nscep>.

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“Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry”, Revision A, February 1999, USEPA publication number EPA-821/R-98-002, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721. (Search: 821r98002.) Also available from NTIS.

“Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry”, Revision B, February 2010, USEPA publication number EPA-821/R-10-001, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721. (Search: 821r10001.) Also available from NTIS.

NTIS. Available from the National Technical Information Service, U.S. Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312, 703-605-6000 or 800-553-6847, www.ntis.gov:

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

BOARD NOTE: “APTI” denotes USEPA’s “Air Pollution Training Institute”.

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

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

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

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

“North American Industry Classification System”, July 2017, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of “NAICS Code”) for the purposes of Section 720.142, and in 35 Ill. Adm. Code 721.104.

BOARD NOTE: Also available on the Internet from the Bureau of Census at www.census.gov/eos/www/naics.

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

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

“Test Methods for Evaluating Solid Waste, Physical/Chemical Methods”, USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (November 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and

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IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, 728.106, and 728.107 (in addition to the references cited below for specific methods), www.epa.gov/hw-sw846:

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

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

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

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

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

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

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

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

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

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

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

Method 1010B (December 2018) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for 35 Ill. Adm. Code 721.121 and Appendix I to 35 Ill. Adm. Code 721.

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

Method 1020C (December 2018) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for 35 Ill. Adm. Code 721.121 and Appendix I to 35 Ill. Adm. Code 721.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OECD. Organization for Economic Cooperation and Development, Environment Directorate, 2 rue André Pascal, F-75775 Paris Cedex 16, France (www.oecd.org), also OECD Washington Center, 1776 I Street, NW, Suite 450, Washington, DC 20006, 202-452-0050 www.oecd-ilibrary.org :

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

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“Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure” (individually referred to as “Annex B to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 3 to OECD decision C(2001)107/FINAL, as amended as described above, together with the text of Annex IX (“List B”) to the “Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal” (“Basel Convention”). Latest Board search for updated version: August 2020.

“Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure” (individually referred to as “Annex C to OECD Guidance Manual” in 35 Ill. Adm. Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II (“Categories of Wastes Requiring Special Consideration”) and VIII (“List A”) to the Basel Convention. Latest Board search for updated version: August 2020.

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

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subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

OECD Guideline for Testing of Chemicals, “Ready Biodegradability”, Method 301B (July 17, 1992), “CO₂ Evolution (Modified Sturm Test)”, referenced in 35 Ill. Adm. Code 724.414. Latest Board search for updated version: August 2020.

STI. Available from the Steel Tank Institute, 944 Donata Ct., Lake Zurich, IL 60047, 847-438-8265, <https://stispfa.org/>

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

USDOD. Available from the United States Department of Defense:

“Defense Explosives Safety Regulation 6055.09, Edition 1” (DESR 6055.09), as in effect on January 13, 2019, referenced in 35 Ill. Adm. Code 726.305. Latest Board search for updated version: August 2020.

“The Motor Vehicle Inspection Report” (DD Form 626), as in effect in October 2011, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

“Requisition Tracking Form” (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

“The Signature and Tally Record” (DD Form 1907), as in effect in October 2011, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

“DOD Multimodal Dangerous Goods Declaration” (DD Form 2890), as in effect in September 2015, referenced in 35 Ill. Adm. Code 726.303. Latest Board search for updated version: August 2020.

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BOARD NOTE: DESR 6055.09, DD Form 626, DD Form 1348, DD Form 1907, and DD Form 2890 are available on-line for download in pdf format from www.esd.whs.mil/DD/.

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

“Hazardous Waste Manifest Instructions”. Instructions for revision 12-17 of USEPA Forms 8700-22 and 8700-22A, referenced in 35 Ill. Adm. Code 722.120. Available at www.epa.gov/hwgenerators/uniform-hazardous-waste-manifest-instructions-sample-form-and-continuation-sheet. Latest Board search for updated version: August 2020.

USEPA, OGWDW. Available from United States Environmental Protection Agency, Office of Ground Water and Drinking Water, State Programs Division, 1200 Pennsylvania Ave., N.W. (Mail Code 4606M), Washington, DC 20460:

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

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

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

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

BOARD NOTE: Also available for purchase from NTIS (see above) and on the Internet at www3.epa.gov/scram001/guidance/guide/EPA-454R-92-019_OCR.pdf.

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

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

USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1103, rev 9/2003, supplemented as necessary with GSA Standard Form 1109, rev 09/1998), referenced in Section 726.303. Latest Board search for updated version: August 2020.

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

- b) Code of Federal Regulations. Available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20401, 202-783-3238, www.ecfr.gov or <https://www.govinfo.gov/app/collection/cfr>:

10 CFR 20.2006 (2023) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20 (2023) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 (2023) (Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 (2023) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 (2023) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

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15 CFR 30.4(b) (2023) (Electronic Export Information Filing, Procedures, Deadlines, and Certification Statements), referenced in 35 Ill. Adm. Code 721.139.

15 CFR 30.6 (2023) (Electronic Export Information Data Elements), referenced in 35 Ill. Adm. Code 721.139.

21 CFR 203.3(y) (2023) (“Prescription Drug”), referenced in 35 Ill. Adm. Code 726.600.

21 CFR 1300 through 1317 (2023) (Drug Enforcement Administration, Department of Justice), referenced in 35 Ill. Adm. Code 726.604 and 726.606.

21 CFR 1300.01 (2023) (Definitions Relating to Controlled Substances), referenced in 35 Ill. Adm. Code 726.604 and 726.606.

21 CFR 1300.05 (2023) (Definitions Relating to the Disposal of Controlled Substances), referenced in 35 Ill. Adm. Code 726.606.

21 CFR 1308.11 through 1308.15 (2023) (Schedules), referenced in 35 Ill. Adm. Code 726.606.

21 CFR 1317.90 (2023) (Methods of Destruction), referenced in 35 Ill. Adm. Code 726.606.

21 CFR 1317.95 (2023) (Destruction Procedures), referenced in 35 Ill. Adm. Code 726.606.

29 CFR 1910.1200 (2023) (Hazard Communication), referenced in 35 Ill. Adm. Code 722.115.

33 CFR 153.203 (2023) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.3 (2023) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 (2023) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

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40 CFR 3.2000 (2023) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) (2023) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (2023) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models", Revised 1986, USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement). Appendix B to 40 CFR 52.741 (2023) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 721.984, 721.986, 721.989, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

40 CFR 60 (2023) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 721.104, 721.950, 721.964, 721.980, 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (2023) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Appendix A to 40 CFR 60 (2023) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Method 23 (Determination of Polychlorinated Dibenzo-*p*-Dioxins and Polychlorinated Dibenzofurans from Stationary Sources) referenced in 35 Ill. Adm. Code 726.204.

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

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

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

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

40 CFR 61 (2023) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 721.104, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 (2023) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Subpart FF of 40 CFR 61 (2023) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 (2023) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 721.293, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 (2023) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 721.984, 724.984, 724.985, 725.985, and 725.986.

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

Subpart EEE of 40 CFR 63 (2023) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220

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(What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (2023) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984. Appendix C to 40 CFR 63 (2023) (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 (2023) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

40 CFR 136.3 (Identification of Test Procedures) (2023), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 (2023) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

40 CFR 232.2 (2023) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 (2023) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257 (2023) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 722.114.

40 CFR 258 (2023) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) (2023) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

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40 CFR 261.151 (2023) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 (2023) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

Appendix to 40 CFR 262 (2023) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 (2023) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

40 CFR 264.1311 (2023) (Manifest Transactions Subject to Fees), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1312 (2023) (User Fee Calculation Methodology), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1313 (2023) (User Fee Revisions), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1314 (2023) (How to Make User Fee Payments), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1315 (2023) (Sanctions for Delinquent Payments), referenced in 35 Ill. Adm. Code 724.171.

40 CFR 264.1316 (2023) (Informal Fee Dispute Resolution), referenced in 35 Ill. Adm. Code 724.171.

Subpart FF of 40 CFR 264 (2023) (Fees for the Electronic Hazardous Waste Manifest Program), referenced in Sections 720.104 and 720.105.

Appendix I to 40 CFR 264 (2023) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

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Appendix IV to 40 CFR 264 (2023) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 (2023) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

Appendix VI to 40 CFR 264 (2023) (Political Jurisdictions in Which Compliance with § 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

40 CFR 265.1311 (2023) (Manifest Transactions Subject to Fees), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1312 (2023) (User Fee Calculation Methodology), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1313 (2023) (User Fee Revisions), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1314 (2023) (How to Make User Fee Payments), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1315 (2023) (Sanctions for Delinquent Payments), referenced in 35 Ill. Adm. Code 725.171.

40 CFR 265.1316 (2023) (Informal Fee Dispute Resolution), referenced in 35 Ill. Adm. Code 725.171.

Subpart FF of 40 CFR 265 (2023) (Fees for the Electronic Hazardous Waste Manifest Program), referenced in Sections 720.104 and 720.105.

Appendix I to 40 CFR 265 (2023) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (2023) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

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Appendix IV to 40 CFR 265 (2023) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (2023) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

Appendix IX to 40 CFR 266 (2023) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

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

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

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

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

40 CFR 267.151 ([20242023](#)) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 ([20242023](#)) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 302 ([20252023](#)) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.293.

40 CFR 403.5 ([20252023](#)) (National Pretreatment Standards: Prohibited Discharges), referenced in 35 Ill. Adm. Code 721.104 and 726.605.

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40 CFR 711.15(a)(4)(i)(C) ([20252023](#)) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 761 ([20252023](#)) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

40 CFR 761.3 ([20252023](#)) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 ([20252023](#)) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 ([20252023](#)) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 ([20252023](#)) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 ([20242022](#)) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 ([20242022](#)) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 ([20242022](#)) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 ([20242022](#)) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 ([20242022](#)) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 ([20242022](#)) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

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49 CFR 172 ([20242022](#)) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.131, 722.132, 724.986, 725.987, 726.609, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

Table to 49 CFR 172.101 ([20242022](#)) (Hazardous Materials Table), referenced in 35 Ill. Adm. Code 721.104, 722.183, 722.184, 724.112, and 725.112.

49 CFR 172.304 ([20242022](#)) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132 and 766.608.

Subpart C of 49 CFR 172 ([20242022](#)) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124 and 726.610.

Subpart D of 49 CFR 172 ([20242022](#)) (Marking), referenced in 35 Ill. Adm. Code 726.608.

Subpart E of 49 CFR 172 ([20242022](#)) (Labeling), referenced in 35 Ill. Adm. Code 722.114, 722.115, and 726.608.

Subpart F of 49 CFR 172 ([20242022](#)) (Placarding), referenced in 35 Ill. Adm. Code 722.114, 722.115, 722.133, and 726.608.

49 CFR 173 ([20242022](#)) (Shippers—General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 726.608, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 ([20242022](#)) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 ([20242022](#)) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 ([20242022](#)) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

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49 CFR 173.50 ([20242022](#)) (Class 1—Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 ([20242022](#)) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 ([20242022](#)) (Class 2, Divisions 2.1, 2.2, and 2.3—Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 ([20242022](#)) (Class 2, Divisions 2.1, 2.2, and 2.3—Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 174 ([20242022](#)) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 ([20242022](#)) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 ([20242022](#)) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 ([20242022](#)) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 177.817 ([20242022](#)) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

49 CFR 178 ([20242022](#)) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 726.608, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 ([20242022](#)) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 726.609, 733.118, 733.138, 733.152, and 739.143.

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49 CFR 180 ([20242022](#)) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 721.986, 724.986, 725.987, 726.608, 726.609, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 ([20242022](#)) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 ([20242022](#)) (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 ([20242022](#)) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 193 ([20242022](#)) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 ([20242022](#)) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 ([20242022](#)) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 196 ([20242022](#)) (Protection of Underground Pipelines from Excavation Activity), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 ([20242022](#)) (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 ([20242022](#)) (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014 ([20232018](#))), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

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Sections 301, 304, 307, and 402 of the Clean Water Act (33 U.S.C. 1311, 1314, 1337, and 1342 ([20242018](#))), referenced in 35 Ill. Adm. Code 721.293.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 U.S.C. 321(v), 321(w), and 360b(j) ([20242018](#))), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 201(ff) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 U.S.C. 321(ff) ([20242018](#))), referenced in Section 726.600.

Section 102(27) of the Controlled Substances Act (21 U.S.C. 802(27) ([20242018](#)) (“Ultimate User”)), referenced in 35 Ill. Adm. Code 726.606.

Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. 6903 ([20232018](#))), referenced in 35 Ill. Adm. Code 721.931, 721.951, 721.981, 724.931, 724.981, 725.931, 725.951, and 725.981.

Chapter 601 of subtitle VIII of 49 U.S.C. (49 U.S.C. 60101 through 60141 ([20232018](#))), referenced in 35 Ill. Adm. Code 721.104.

Section 1412 of the Department of Defense Authorization Act of 1986 (50 U.S.C. 1521(j)(1) ([20232018](#))), referenced in 35 Ill. Adm. Code 726.301.

d) This Section incorporates no later editions or amendments.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 721

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

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

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May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1607, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11367, effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 21673, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 496, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 5884, effective May 2, 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15142, effective September 3, 2020; amended in R21-13, R22-13, R24-4 at 48 Ill. Reg. 9827, effective June 20, 2024; amended in R24-12 at 48 Ill. Reg. 16813, effective November 7, 2024; amended in R25-22 at 49 Ill. Reg. 11375, effective August 27, 2025; amended in R25-23 at 49 Ill. Reg. 12715, effective September 23, 2025; amended in R26-4 at 50 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.104 Exclusions

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- a) Materials That Are Not Solid Wastes. The following materials are not solid wastes for this Part:
- 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a sewer system); and
 - B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment, except as prohibited by 35 Ill. Adm. Code 726.605 and 40 CFR 403.5(b), incorporated by reference in 35 Ill. Adm. Code 720.111.
 - 2) Industrial wastewater discharges that are point source discharges with NPDES permits issued by the Agency under Section 12(f) of the Act and 35 Ill. Adm. Code 309.

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

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- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, if they are reused in the production process, provided that the following is true:
- A) Only tank storage is involved, and the entire process through completing reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;
 - B) Reclamation does not involve controlled flame combustion (like that occurring in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and that are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and that are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B), so long as they meet the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

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- iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and
 - v) Prior to operating under this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets the conditions under subsection (a)(9)(C). If the plant does not comply with any condition, it may apply to the Agency for reinstatement of the exclusion. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to complying with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, grant the reinstatement with conditions, or terminate a reinstatement before the Board under Section 40 of the Act.
- 10) USEPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation

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these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.

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

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

- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- 14) Shredded circuit boards being recycled if they meet the following conditions:
 - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) This subsection (a)(16) corresponds with 40 CFR 261.4(a)(16), marked "reserved" by USEPA. This statement maintains structural consistency with the federal regulations.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, if :
 - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
 - B) The spent material is not accumulated speculatively;

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- C) Except as provided in subsection (a)(17)(D), the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof that are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors if the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.

- D) The Agency must allow by permit in writing that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
 - i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to

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human and environmental receptors via each exposure pathway.

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

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

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
 - F) For subsection (b)(7), mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.
- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, if the oil is to be inserted into the petroleum

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refining process (SIC code 2911) along with normal petroleum refinery process streams, if:

- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste number D018); and
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An “associated organic chemical manufacturing facility” is a facility for which the: primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. “Petrochemical recovered oil” is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, if that the following conditions are met:
- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
 - B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must:
 - i) Submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the

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generator or intermediate handler facility, that provides a brief description of the secondary material that will be subject to the exclusion, and that identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).

- ii) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that meet the conditions of subsection (a)(20)(F).
 - iii) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) Maintain records at the generator's or intermediate handler's facility, for at least three years, of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G).
- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must:
- i) Store excluded hazardous secondary materials in compliance with the storage requirements for generators

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- and intermediate handlers, as specified in subsection (a)(20)(B)(ii).
- ii) Submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and that identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - iii) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
 - iv) Submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.
- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to submitting the one-time notice described in subsection (a)(20)(B)(i), and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.

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- F) Storage areas where containers are stored outdoors under subsection (a)(20)(B)(ii), must:
- i) Have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) Provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) Prevent run-on into the containment system.

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

- G) Required records of shipments of excluded hazardous secondary materials under subsection (a)(20)(B)(iv) must, at a minimum, contain the following information:
- i) The name of the transporter and date of the shipment;
 - ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
 - iii) The type and quantity of excluded secondary material in each shipment.

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

- 21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20), if:

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A) The fertilizers meet the following contaminant limits:

i) For metal contaminants:

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

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

B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals at least once every six months, and for dioxins at least once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that a constituent of concern is not present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

C) The manufacturer maintains, for at least three years, records of all sampling and analyses performed for determining compliance with subsection (a)(21)(B). The records must at a minimum include the following:

i) The dates and times product samples were taken, and the dates the samples were analyzed;

ii) The names and qualifications of the persons taking the samples;

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- iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).
- 22) Used CRTs
- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
 - B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling if they comply with Section 721.140.
 - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste if they comply with the requirements of Section 721.139.
 - D) Glass removed from CRTs is not a solid waste if it complies with the requirements of Section 721.139(c).
- 23) Hazardous Secondary Materials Reclaimed under the Control of the Generator. Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, if the material complies with subsections (a)(23)(A) and (a)(23)(B):
- A) Excluded Hazardous Secondary Materials

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- i) The hazardous secondary material is generated and reclaimed at the generating facility. (For this subsection (a)(23)(A)(i), “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.);
- ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in 35 Ill. Adm. Code 720.110, and if the generator provides one of the following certifications:

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

or

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

For subsection (a)(23)(A)(ii), “control” means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, cannot be deemed to “control” such facilities. The generating and receiving facilities must both maintain at their facilities, for no less

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than three years, records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations); or

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

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

The tolling contractor must maintain at its facility, for at least three years, records of hazardous secondary materials received under its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility, for no less than three years, records of hazardous secondary materials shipped under its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the written

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contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations). For this subsection (a)(23)(A)(ii), “tolling contractor” means a person who arranges for producing a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. “Toll manufacturer” means a person who produces a product or intermediate made from specified unused materials under a written contract with a tolling contractor.

- B) Management of Hazardous Secondary Materials
- i) The hazardous secondary material is contained, as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded material and a solid waste unless it is immediately recovered for reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded material and a solid waste;
 - ii) The hazardous secondary material is not speculatively accumulated, as defined in Section 721.101(c)(8);
 - iii) Notice is provided, as required by 35 Ill. Adm. Code 720.142;
 - iv) The hazardous secondary material is not otherwise subject to material-specific management conditions under subsection (a) when reclaimed, and it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102);
 - v) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all three factors in 35 Ill. Adm. Code 720.143(a) and how the factor in 35 Ill. Adm. Code

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720.143(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and

- vi) The emergency preparedness and response requirements found in Subpart M are met.
- 24) Hazardous Secondary Materials Transferred for Off-Site Reclamation. Hazardous secondary material that is generated and then transferred to another person for reclamation is not a solid waste if the management of the material meets the conditions of subsections (a)(24)(A) through (a)(24)(G):
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.101(c)(8).
 - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the hazardous secondary material must not be stored for more than ten days at a transfer facility, as defined in Section 721.110; and the hazardous secondary material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.
 - C) The hazardous secondary material must not otherwise be subject to material-specific management conditions under other provisions of this subsection (a) when reclaimed, and the hazardous secondary material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102).
 - D) Reclaiming the hazardous secondary material must be legitimate, as determined under 35 Ill. Adm. Code 720.143.
 - E) The hazardous secondary material generator must meet each of the following conditions:
 - i) The hazardous secondary material must be contained as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded

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and a solid waste unless it is immediately recovered for recycling. Hazardous secondary material managed in a unit that leaks or that otherwise continuously releases hazardous secondary material is discarded material and a solid waste.

- ii) Prior to arranging for transport of hazardous secondary materials to a reclamation facility where the hazardous secondary material is managed in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will pass through an intermediate facility where the hazardous secondary materials is managed at that facility in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must affirmatively answer the questions in subsection (a)(24)(H) for each reclamation facility and any intermediate facility.

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

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

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

BOARD NOTE: The Board combined the documentation, certification, and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) into subsection (a)(24)(E)(iii) to comply with codification requirements.

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

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

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

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

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

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

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

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

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

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

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

- iv) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.
- v) If residuals are generated from reclaiming the excluded hazardous secondary materials, does the reclamation facility have the permits required (if any) to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment? In answering these questions,

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the hazardous secondary material generator can rely on publicly available information from USEPA or the state, or information provided by the facility itself.

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

- 25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) and (a)(24)(H) (excepting subsection (a)(24)(H)(ii) for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements:
- A) The generator must notify USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the hazardous secondary material generator, and include the following information:
- i) The name, [sitemailing](#) address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) A description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste and the USDOT proper shipping name, hazard class and identification number (UN or NA) for each hazardous secondary material as identified in the hazardous materials table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;

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- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period over which the hazardous secondary material is to be exported;
 - iv) The estimated total quantity of hazardous secondary material;
 - v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
 - vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.), etc.);
 - vii) A description of how the hazardous secondary material will be reclaimed in the country of import;
 - viii) The name and [site](#) address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and
 - ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for this Section, the terms “USEPA Acknowledgement of Consent”, “country of import”, and “country of transit” are used as defined in 35 Ill. Adm. Code 722.181 with the exception that the terms in this Section refer to hazardous secondary materials, rather than hazardous waste).
- B) The generator must submit notifications electronically using USEPA’s Waste Import Export Tracking System (WIETS).
- C) Except for changes to the telephone number required in subsection (a)(25)(A)(i) and decreases in the quantity of hazardous secondary material indicated under subsection (a)(25)(A)(iv), when the

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conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide USEPA with a written renotification of the change. The shipment must not occur until consent of the country of import to the changes (except for changes to subsection (a)(25)(A)(ix) and in the ports of entry to and departure from countries of transit under subsection (a)(25)(A)(v)) has been obtained and the hazardous secondary material generator receives from USEPA a USEPA Acknowledgment of Consent reflecting the country of import's consent to the changes.

- D) Upon request by USEPA, the hazardous secondary material generator must furnish to USEPA any additional information that a country of import requests to respond to a notification.
- E) USEPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when USEPA receives a notification that USEPA determines complies with subsection (a)(25)(A). ~~When a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A), USEPA may find the notification not complete until any such claim is resolved in compliance with 35 Ill. Adm. Code 720.102.~~
- F) The export of hazardous secondary material under this subsection (a)(25) is prohibited unless the hazardous secondary material generator receives from USEPA an USEPA Acknowledgment of Consent documenting the consent of the country of import to the receipt of hazardous secondary material. When the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA will notify the hazardous secondary material generator in writing. USEPA will also notify the hazardous secondary material generator of any responses from countries of transit.
- G) For exports to OECD member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a

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notification provided under subsection (a)(25)(A) within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, USEPA will send a USEPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.

- H) A copy of the USEPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the USEPA Acknowledgment of Consent.
- I) If the shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in compliance with subsection (a)(25)(C) and obtain another USEPA Acknowledgment of Consent.
- J) Hazardous secondary material generators must keep a copy of each notification of intent to export and each USEPA Acknowledgment of Consent for a period of three years following receipt of the USEPA Acknowledgment of Consent. They may meet this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on USEPA's WIETS, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this Section if it can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with USEPA's WIETS for which the hazardous secondary material generator bears no responsibility.

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- K) Hazardous secondary material generators must file with USEPA, no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using USEPA's WIETS. Such reports must include the following information:
- i) Name, mailing and site address, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material were managed as hazardous waste; the USDOT hazard class, incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (if applicable) for each transporter used, the consent number(s) under which the hazardous secondary material was shipped and for each consent number(s) the total amount of hazardous secondary material shipped, and the number of shipments during the calendar year covered by the report; and
 - v) A certification signed by the hazardous secondary material generator that states as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am

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aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

- L) Any person claiming an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.
- 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation if the following conditions are met:
 - A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes”. The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
 - C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;

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

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

- A) The hazardous secondary material consists of one or more of the following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, N,N-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, or methanol.

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

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

- E) After remanufacturing one or more of the solvents listed in subsection (a)(27)(i), the use of the remanufactured solvent does

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not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Category Code U029 (solvents (for cleaning and degreasing)) in 40 CFR 711.15(b)(4)(i)(C), incorporated by reference in 35 Ill. Adm. Code 720.111.

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

BOARD NOTE: The Board moved corresponding 40 CFR 261.4(a)(27)(vi)(B)(I) through (a)(27)(vi)(B)(J) to appear as subsections (a)(27)(G)(i) through (a)(27)(G)(v) to comport with codification requirements.

- iii) The generator and remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;
- iv) The generator and remanufacturer must, prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Subparts I and J, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;
- v) The generator and remanufacturer must, during remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls complying with the

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applicable Clean Air Act regulations of 40 CFR 60, 61 and 63, incorporated by reference in 35 Ill. Adm. Code 720.111; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are complying with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage); and

- vi) The generator and remanufacturer must meet the requirements prohibiting speculative accumulation in Section 721.101(c)(8).
- G) The following information items are required elements for a remanufacturing plan.
- i) The name, address and USEPA ID number of the generators and the remanufacturers;
 - ii) The types and estimated annual volumes of spent solvents to be remanufactured;
 - iii) The processes and industry sectors that generate the spent solvents;
 - iv) The specific uses and industry sectors for the remanufactured solvents; and
 - v) A certification from the remanufacturer stating as follows: "On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent(s) solely for remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and

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tanks are equipped with and are operating air emission controls complying with the appropriate Clean Air Act regulations under 40 CFR 60, 61 or 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, comply with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage).”

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

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

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

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:
 - A) The growing and harvesting of agricultural crops; or
 - B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Coal and Fossil Fuel Combustion Waste
 - A) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from combusting coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
 - B) The following wastes generated primarily from processes that support combusting coal or other fossil fuels that are co-disposed with the wastes in subsection (b)(4)(A), except as provided by 35 Ill. Adm. Code 726.112 for facilities that burn or process hazardous waste:
 - i) Coal Pile Run-Off. For this subsection (b)(4), “coal pile run-off” means any precipitation that drains off coal piles.

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- ii) Boiler Cleaning Solutions. For this subsection (b)(4), “boiler cleaning solutions” means water solutions and chemical solutions used to clean the fire-side and waterside of the boiler.
- iii) Boiler Blowdown. For this subsection (b)(4), “boiler blowdown” means water purged from boilers used to generate steam.
- iv) Process Water Treatment and Demineralizer Regeneration Wastes. For this subsection (b)(4), “process water treatment and demineralizer regeneration wastes” means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.
- v) Cooling Tower Blowdown. For this subsection (b)(4), “cooling tower blowdown” means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.
- vi) Air Heater and Precipitator Washes. For this subsection (b)(4), “air heater and precipitator washes” means wastes from cleaning air preheaters and electrostatic precipitators.
- vii) Effluents from Floor and Yard Drains and Sumps. For this subsection (b)(4), “effluents from floor and yard drains and sumps” means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain run-off, collected by yard drains and sumps located outside the power plant building.
- viii) Wastewater Treatment Sludges. For this subsection (b)(4), “wastewater treatment sludges” refers to sludges generated from the treatment of wastewaters specified in subsections (b)(4)(B)(i) through (b)(4)(B)(vi).

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- 5) Drilling fluids, produced waters, and other wastes associated with the exploring, developing, or producing crude oil, natural gas, or geothermal energy.
- 6) Chromium Wastes
 - A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B) because chromium is present or that are listed in Subpart D due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or that are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if the waste generator shows the following:
 - i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
 - ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - iii) The waste is typically and frequently managed in non-oxidizing environments.
 - B) The following are specific wastes that meet the standard in subsection (b)(6)(A) (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):
 - i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;

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

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sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except if the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

- B) For this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
- i) Slag from primary copper processing;
 - ii) Slag from primary lead processing;
 - iii) Red and brown muds from bauxite refining;
 - iv) Phosphogypsum from phosphoric acid production;
 - v) Slag from elemental phosphorus production;
 - vi) Gasifier ash from coal gasification;
 - vii) Process wastewater from coal gasification;
 - viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
 - ix) Slag tailings from primary copper processing;
 - x) Fluorogypsum from hydrofluoric acid production;
 - xi) Process wastewater from hydrofluoric acid production;
 - xii) Air pollution control dust or sludge from iron blast furnaces;
 - xiii) Iron blast furnace slag;

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- xiv) Treated residue from roasting and leaching of chrome ore;
 - xv) Process wastewater from primary magnesium processing by the anhydrous process;
 - xvi) Process wastewater from phosphoric acid production;
 - xvii) Basic oxygen furnace and open-hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open-hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are met:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for USEPA hazardous waste numbers D004 through D017 and that is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.

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

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

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

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

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

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- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked “reserved”. This statement maintains structural parity with USEPA regulations.
- 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.
- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation if the following conditions are met:
 - A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes”. The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
 - C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;

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- E) Generators must maintain at their site the following documentation:
 - i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and

- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
 - i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved under 42 USC 6943 and 6947; or
 - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved under 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA under 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40

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CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved under 42 USC 6926.

- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transporting product or raw materials.

- d) Samples
 - 1) Except as provided in subsections (d)(2) and (d)(4), a sample of solid waste or a sample of water, soil, or air that is collected solely for testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it meets one of the following conditions:
 - A) The sample is being transported to a laboratory for testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
 - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action if further testing of the sample may be necessary).

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- 2) To qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must do the following:
 - A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
 - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
 - 3) This exemption does not apply if the laboratory determines that the waste is hazardous, but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1).
 - 4) To qualify for the exemption in subsections (d)(1)(A) and (d)(1)(B), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.
- e) Treatability Study Samples
- 1) Except as provided in subsections (e)(2) and (e)(4), a person that generates or collects samples for conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of [35 Ill. Adm. Code 722 and 723](#), ~~35 Ill. Adm. Code 721 through 723~~ or to the notification requirements of section 3010 of RCRA (42 USC 6930). Nor are such samples included in the quantity determinations of [Section 722.113 and the accumulation limits in Sections 722.114\(a\)\(3\)](#).

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[722.114\(a\)\(4\), and 722.116\(b\)\(1\)](#) ~~35 Ill. Adm. Code 722.114 and 722.116~~
when:

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

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mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;

- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f), or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completing the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4), for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances in either subsection (e)(3)(A) or (e)(3)(B), subject to the limitations of subsection (e)(3)(C):

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

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- iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
 - iv) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and
 - v) Such other information as the Agency determines is necessary.
- 4) To qualify for the exemption in subsection (e)(1)(A), the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed 25 kg.
- 5) Final Agency determinations under this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930), provided that the owner or operator complies with subsections (f)(1) through (f)(11). A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
 - 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.

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

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

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- 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e).
- 11) The facility notifies the Agency by letter when the facility is no longer planning to conduct any treatability studies at the site.
- g) Dredged Material That Is Not a Hazardous Waste. Dredged material that is subject to a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For this subsection (g), the following definitions apply:

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

“Permit” means any of the following:

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

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

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

- h) Carbon Dioxide Stream Injected for Geologic Sequestration. Carbon dioxide streams that are captured and transported for injecting into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, if the following conditions are met:
- 1) Transporting the carbon dioxide stream must comply with U.S. Department of Transportation requirements, including the pipeline safety

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laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority under a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code 720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable;

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

- 2) Injecting the carbon dioxide stream must comply with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes may be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications
 - A) Any generator of a carbon dioxide stream, that claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

“I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream complying with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream complying with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 USC 60101 et seq.) and regulations (49 CFR Parts 190 through 199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC

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60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.).”

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

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

- C) The signed certification statement must be kept on-site, for no less than three years, and must be made available within 72 hours after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility’s publicly available website (if such website exists) as a public notification with the title of “Carbon Dioxide Stream Certification” at the time the exclusion is claimed.
- i) This subsection corresponds with 40 CFR 261.4(i), which USEPA marked “Reserved”. This statement maintains structural consistency with the federal regulation.
- j) Airbag Waste

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- 1) At the airbag waste handler or during transport to an airbag waste collection facility or designated facility, airbag waste is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 and is not subject to the notification requirements of section 3010 of RCRA provided that the airbag waste handler or transporter meets the following conditions:
 - A) The airbag waste handler or transporter accumulates the airbag waste in a quantity of no more than 250 airbag modules or airbag inflators for no longer than 180 days;
 - B) The airbag waste handler or transporter packages the airbag waste in a container designed to address the risk posed by the airbag waste and labeled “Airbag Waste—Do Not Reuse”;
 - C) The airbag waste handler or transporter sends the airbag waste directly to either of the following facilities:
 - i) An airbag waste collection facility in the United States that is under the control of a vehicle manufacturer or its authorized representative or that is under the control of a person authorized to administer a remedy program in response to a vehicle safety recall under 49 USC 30120; or
 - ii) A designated facility, as defined in 35 Ill. Adm. Code 720.110;
 - D) The transport of the airbag waste complies with all applicable USDOT regulations in 49 CFR 171 through 180 during transit; and
 - E) The airbag waste handler maintains at the handler facility, for at least three years, records of each off-site shipment of airbag waste and each confirmation of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter, the date of the shipment, the name and address of the receiving facility, and the type and quantity of airbag waste (i.e.,

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airbag modules or airbag inflators) in the shipment. A confirmation of receipt must include the name and address of the receiving facility, the type and quantity of the airbag waste (i.e., airbag modules and airbag inflators) received, and the date when the airbag waste collection facility received the airbag waste. The airbag waste handler must make shipping records and confirmations of receipt available for inspection and may meet this requirement using routine business records (e.g., electronic or paper financial records, bills of lading, copies of USDOT shipping papers, electronic confirmations of receipt, etc.).

- 2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable hazardous waste regulations. The facility receiving airbag waste is considered the hazardous waste generator for the hazardous waste regulations and must comply with 35 Ill. Adm. Code 722.
- 3) Reuse in vehicles of defective airbag modules or defective airbag inflators that are subject to a recall under 49 USC 30120 is considered sham recycling and prohibited under 35 Ill. Adm. Code 721.102(g).

BOARD NOTE: This precludes any possibility that reuse qualifies for recycling-based exclusion from the definition of solid waste. Federal law prohibits selling defective recalled motor vehicle equipment if it may reasonably be used for its original purpose. (See 42 USC 30120(j).)

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 721.106 Requirements for Recyclable Materials

- a) Recyclable Materials
 - 1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsections (b) and (c), except for the materials listed in subsections (a)(2) and (a)(3). Hazardous wastes that are recycled will be known as “recyclable materials”.

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- 2) The following recyclable materials are not subject to this Section but are regulated under Subparts C through ~~QH~~ of 35 Ill. Adm. Code 726 and all applicable provisions in 35 Ill. Adm. Code 702, 703, and 728.
- A) Recyclable materials used in a manner constituting disposal (see Subpart C of 35 Ill. Adm. Code 726);
 - B) Hazardous wastes burned (as defined in 35 Ill. Adm. Code 726.200(a)) in boilers and industrial furnaces that are not regulated under Subpart O of 35 Ill. Adm. Code 724 or Subpart O (see Subpart H of 35 Ill. Adm. Code 726);
 - C) Recyclable materials from which precious metals are reclaimed (see Subpart F of 35 Ill. Adm. Code 726); ~~and~~
 - D) Spent lead-acid batteries that are being reclaimed (see Subpart G of 35 Ill. Adm. Code 726); ~~and~~
 - E) [Ignitable spent refrigerants recycled for reuse \(35 Ill. Adm. Code 726 subpart Q\)](#).
- 3) The following recyclable materials are not subject to regulation under 35 Ill. Adm. Code 722 through 728, or 702 and 703 and are not subject to the notification requirements of section 3010 of RCRA (42 USC 6930):
- A) Industrial ethyl alcohol that is reclaimed except that exports and imports of these recyclable material must comply with 40 CFR 262, subpart H.
 - i) [The person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, must comply with the requirements applicable to an exporter in Section 722.183 with the exception of Section 722.183\(c\);](#)
 - ii) [Transporters transporting a shipment for export or import must comply with the movement document requirements listed in Section 723.120\(a\)\(2\) and \(c\).](#)
 - B) Scrap metal that is not excluded under Section 721.104(a)(13);

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- C) Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if these wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste if the recovered oil is already excluded under Section 721.104(a)(12));
- D) Petroleum Refining Wastes
 - i) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices or produced from oil reclaimed from the hazardous wastes, if these hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil, so long as the resulting fuel meets the used oil specification under 35 Ill. Adm. Code 739.111 and so long as no other hazardous wastes are used to produce the hazardous waste fuel;
 - ii) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, if the hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under 35 Ill. Adm. Code 739.111; and
 - iii) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under 35 Ill. Adm. Code 739.111.
- 4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to 35 Ill. Adm. Code 720 through 728, but it is regulated under 35 Ill. Adm. Code 739. Used oil that is recycled includes any used oil that is reused for any purpose following

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its original use (including the purpose for which the oil was originally used). This term includes oil that is re-refined, reclaimed, burned for energy recovery, or reprocessed.

- 5) Hazardous waste that is exported or imported for recovery is subject to Subpart H of 35 Ill. Adm. Code 722.
- b) Generators and transporters of recyclable materials are subject to the applicable requirements of 35 Ill. Adm. Code 722 and 723 and the notification requirements under section 3010 of RCRA (42 USC 6930), except as provided in subsection (a).
- c) Storage and Recycling
 - 1) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of Subparts A through L, AA through DD of 35 Ill. Adm. Code 724 and 725 and 35 Ill. Adm. Code 702, 703, 705, 726, 727, and 728; and the notification requirement under section 3010 of RCRA (42 USC 6930), except as provided in subsection (a). (The recycling process itself is exempt from regulation, except as provided in subsection (d).)
 - 2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in subsection (a):
 - A) Notification requirements under section 3010 of RCRA (42 USC 6930);
 - B) 35 Ill. Adm. Code 725.171 and 725.172 (dealing with the use of the manifest and manifest discrepancies);
 - C) Subsection (d); and
 - D) 35 Ill. Adm. Code 725.175 (annual reporting requirements).
- d) Owners or operators of facilities required to have a RCRA permit under 35 Ill. Adm. Code 703 with hazardous waste management units that recycle hazardous wastes are subject to Subparts AA and BB of 35 Ill. Adm. Code 724 or 725 or 35 Ill. Adm. Code 267.

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(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section 721.139 Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling

Used, broken CRTs are not solid waste if they meet the following conditions:

- a) Prior to CRT Processing. These materials are not solid wastes if they are destined for recycling and they meet the following requirements:
 - 1) Storage. The broken CRTs must be managed in either of the following ways:
 - A) They are stored in a building with a roof, floor, and walls, or
 - B) They are placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).
 - 2) Labeling. Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: "Used cathode ray tubes—contains leaded glass" or "Leaded glass from televisions or computers". It must also be labeled with the following statement: "Do not mix with other glass materials."
 - 3) Transportation. The used, broken CRTs must be transported in a container meeting the requirements of subsections (a)(1)(B) and (a)(2).
 - 4) Speculative Accumulation and Use Constituting Disposal. The used, broken CRTs are subject to the limitations on speculative accumulation, as defined in subsection (c)(8). If they are used in a manner constituting disposal, they must comply with the applicable requirements of Subpart C of 35 Ill. Adm. Code 726, instead of the requirements of this Section.
 - 5) Exports. In addition to the applicable conditions specified in subsections (a)(1) through (a)(4), an exporter of used, broken CRTs must comply with the following requirements:

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- A) It must notify the Agency and USEPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or shorter period. The notification must be in writing, signed by the exporter, and include the following information:
- i) The name, [sitemailing](#) address, telephone number and USEPA identification number (if applicable) of the exporter of the CRTs.
 - ii) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.
 - iii) The estimated total quantity of CRTs specified in kilograms.
 - iv) All points of entry to and departure from each foreign country through which the CRTs will pass.
 - v) A description of the means by which each shipment of the CRTs will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.)).
 - vi) The name and [site](#) address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the name of any alternate recycler.
 - vii) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.
 - viii) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.

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- B) Notifications must be submitted electronically using USEPA's Waste Import Export Tracking System (WIETS).
- C) Upon request by the Agency or USEPA, the exporter must furnish to the Agency and USEPA any additional information which a receiving country requests in order to respond to a notification.
- D) USEPA has stated that it will provide a complete notification to the receiving country and any transit countries. A notification is complete when the Agency and USEPA receives a notification that USEPA determines satisfies the requirements of subsection (a)(5)(A).
- E) The export of CRTs is prohibited, unless all of the following occur:
 - i) The receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, USEPA has stated that it will forward a USEPA an Acknowledgment of Consent (AOC) to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, USEPA has stated that it will notify the exporter in writing. USEPA has stated that it will also notify the exporter of any responses from transit countries.
 - ii) The exporter or a U.S. authorized agent must fulfill the requirements of subsection (a)(6).

BOARD NOTE: The Board moved the text of corresponding 40 CFR 261.39(a)(5)(v)(B)(I) through (a)(5)(v)(B)(2)(vii) to appear as subsections (a)(6)(A) through (a)(6)(B)(vii) to comport with codification requirements.

- F) When the conditions specified on the original notification change, the exporter must provide the Agency and USEPA with a written renotification of the change using the allowable methods listed in subsection (a)(5)(ii) of this section, except for changes to the telephone number in subsection (a)(5)(A)(i) and decreases in the

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quantity indicated pursuant to subsection (a)(5)(A)(iii). The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to subsections (a)(5)(A)(iv) and (a)(5)(A)(viii)) and the exporter of CRTs receives from USEPA a copy of the AOC to Export CRTs reflecting the receiving country's consent to the changes.

- G) A copy of the AOC to Export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.
- H) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify the Agency and USEPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with subsection (a)(5)(F) and obtain another AOC to Export CRTs.
- I) An exporter must keep copies of notifications and AOCs to Export CRTs for a period of three years following receipt of the AOC. An exporter may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in the CRT exporter's account on USEPA's WIETS, or its successor system, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector. No CRT exporter may be held liable for the inability to produce a notification or Acknowledgement for inspection under this section if the CRT exporter can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with USEPA's WIETS, or its successor system for which the CRT exporter bears no responsibility.
- J) A CRT exporter must file with USEPA, no later than March 1 of each year, an annual report summarizing the quantities (in kilograms), frequency of shipment, and ultimate destinations (i.e., the facility or facilities where the recycling occurs) of all used

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CRTs exported during the previous calendar year. This annual report must also include the following:

- i) The name, USEPA identification number (if applicable), and mailing and site address of the exporter;
- ii) The calendar year covered by the report;
- iii) A certification signed by the CRT exporter that states as follows:

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

- K) Annual reports must be submitted to the office listed using the allowable methods specified in subsection (a)(5)(B). Exporters must keep copies of each annual report for a period of at least three years ~~from~~^{after} the due date of the report. An exporter may satisfy this recordkeeping requirement by retaining electronically submitted annual reports in the CRT exporter’s account on USEPA’s WIETS, or its successor system, provided that a copy is readily available for viewing and production if requested by any USEPA or authorized Agency inspector. No CRT exporter may be held liable for the inability to produce an annual report for inspection under this Section if the CRT exporter can demonstrate that the inability to produce the annual report is due exclusively to technical difficulty with USEPA’s WIETS, or its successor system for which the CRT exporter bears no responsibility.

BOARD NOTE: The hazardous waste import and export rules define “USEPA Acknowledgement of Consent” in 35 Ill. Adm. Code 722.181.

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- 6) AES Reporting Requirements. The exporter or a U.S. authorized agent must:
- A) Submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), incorporated by reference in 35 Ill. Adm. Code 720.111.
 - B) Include the following items in the EEI, along with the other information required under 15 CFR 30.6, incorporated by reference in 35 Ill. Adm. Code 720.111:
 - i) The USEPA license code;
 - ii) The commodity classification code (per 15 CFR 30.6(a)(12));
 - iii) The USEPA consent number;
 - iv) The country of ultimate destination (per 15 CFR 30.6(a)(5));~~;~~
 - v) The date of export (per 15 CFR 30.6(a)(2));~~;~~
 - vi) The quantity of waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume (per 15 CFR 30.6(a)(15));~~;~~ or
 - vii) The USEPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

BOARD NOTE: The Board moved the text of corresponding 40 CFR 261.39(a)(5)(v)(B)(1) through (a)(5)(v)(B)(2)(vii) to appear as subsections (a)(6)(A) through (a)(6)(B)(vii) to comport with codification requirements.

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BOARD NOTE: Corresponding 40 CFR 261.39(a)(5) requires communications relating to export of CRTs between the exporter and USEPA. It is clear that USEPA intends to maintain its central role between the exporter and the export-receiving country and its granting authorization to export. Nevertheless, the Board has required the exporter submit to the Agency also whatever notifications it must submit to USEPA relating to the export. The intent is to facilitate the Agency's efforts towards assurance of compliance with the regulations as a whole, and not to require a separate authorization for export by the Agency.

- b) Requirements for used CRT processing. Used, broken CRTs undergoing CRT processing, as defined in 35 Ill. Adm. Code 720.110, are not solid waste if they meet the following requirements:
- 1) Storage. Used, broken CRTs undergoing CRT processing are subject to the requirement of subsection (a)(4).
 - 2) CRT Processing
 - A) All activities specified in the second and third paragraphs of the definition of "CRT processing" in 35 Ill. Adm. Code 720.110 must be performed within a building with a roof, floor, and walls; and

BOARD NOTE: The activities specified in the second and third paragraphs of the definition of "CRT processing" are "intentionally breaking intact CRTs or further breaking or separating broken CRTs" and "sorting or otherwise managing glass removed from CRT monitors".
 - B) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.
- c) Glass from CRT processing that is sent to CRT glass making or lead smelting. Glass from CRT processing that is destined for recycling at a CRT glass manufacturer or a lead smelter after CRT processing is not a solid waste unless it is speculatively accumulated, as defined in Section 721.101(c)(8).
- d) Use constituting disposal. Glass from CRT processing that is used in a manner constituting disposal must comply with the requirements of Subpart C of 35 Ill. Adm. Code 726 instead of the requirements of this Section.

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(Source: Amended at 50 Ill. Reg. _____, effective _____)

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

Section 721.240 Applicability

The requirements of this subpart apply to (1) those areas of an entity managing hazardous secondary materials excluded under Section 721.104(a)(23) or (24) where such materials are generated or accumulated on site, and (2) facilities regulated under the standards at Section 726, subpart Q that receive ignitable spent refrigerant from off-site and that are not transfer facilities that store the refrigerants for less than ten (10) days.

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- a) A generator of hazardous secondary material, or an intermediate or reclamation facility, that accumulates 6000 kg or less of hazardous secondary material at any time must comply with §§ 261.410 and 261.411. The requirements of this Subpart H apply to owners or operators of reclamation and intermediate facilities managing hazardous secondary materials excluded under Section 721.104(a)(24), except as provided otherwise in this Section.
- b) A generator of hazardous secondary material, or an intermediate or reclamation facility that accumulates more than 6000 kg of hazardous secondary material at any time must comply with Sections 721.510 and 721.520. States and the federal government are exempt from the financial assurance requirements of this Subpart H.
- c) Facilities receiving refrigerant from off-site under Section 726, subpart Q that are not transfer facilities that store the refrigerants for less than ten (10) days must comply with Sections 721.510 and 721.520.

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Commented [SKA12]: 10

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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

Section 721.500 Applicability

The requirements of Subpart M apply to (1) those areas of an entity managing hazardous secondary materials excluded under Section 721.104(a)(23) or (a)(24) where ~~such hazardous secondary~~ materials are generated or accumulated on site, and (2) facilities regulated under the

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standards in Section 726 subpart Q that receive ignitable spent refrigerant from off-site and that are not transfer facilities that store refrigerants for less than ten (10) days.

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- a) A generator of hazardous secondary material, or an intermediate or reclamation facility operating, that accumulates 6,000 kg or less of hazardous secondary material at any time must comply with Sections 721.510 and 721.511.
- b) A generator of hazardous secondary material, or an intermediate or reclamation facility that accumulates more than 6,000 kg of hazardous secondary material at any time must comply with Sections 721.510 and 721.520.
- c) Facilities receiving refrigerant from off-site under Section 726 subpart Q that are not transfer facilities that store the refrigerants for less than ten (10) days must comply with Sections 721.510 and 721.520.

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Commented [SKA16]: 10

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 721.520 Contingency Planning and Emergency Procedures for Facilities Generating or Accumulating More Than 6,000 kg of Hazardous Secondary Material or Receiving Ignitable Spent Refrigerants

A generator or an intermediate or reclamation facility that generates or accumulates more than 6,000 kg of hazardous secondary material, or a facility receiving refrigerant from off-site under Section 726, subpart Q, that is not a transfer facility that stores the refrigerants for less than ten (10) days must comply with the following requirements: A generator or an intermediate or reclamation facility that generates or accumulates more than 6,000 kg of hazardous secondary material must comply with the following requirements:

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- a) Purpose of and Implementing Contingency Plan
 - 1) Each generator or an intermediate or reclamation facility that accumulates more than 6,000 kg of hazardous secondary material must have a contingency plan for its facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water.
 - 2) The provisions of the contingency plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous secondary

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material or hazardous secondary material constituents that could threaten human health or the environment.

b) Content of Contingency Plan

- 1) The contingency plan must describe the actions facility personnel must take to comply with subsections (a) and (f) in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water at the facility.
- 2) If the generator or an intermediate or reclamation facility accumulating more than 6,000 kg of hazardous secondary material has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan under 40 CFR 112, or some other emergency or contingency plan, the facility needs only amend that plan to incorporate hazardous secondary material management provisions that are sufficient to comply with this Part. The hazardous secondary material generator or an intermediate or reclamation facility may develop one contingency plan that meets all regulatory requirements. When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

BOARD NOTE: USEPA has recommended that the contingency plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan").

- 3) The contingency plan must describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, under 35 Ill. Adm. Code 722.510(f).
- 4) The contingency plan must list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see subsection (e)), and this list must be kept up to date. If more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

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- 5) The contingency plan must include a list of all emergency equipment at the facility (like fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), if this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each emergency equipment item on the list, and a brief outline of its capabilities.
 - 6) The contingency plan must include an evacuation plan for facility personnel if there is a possibility that evacuation could be necessary. This evacuation plan must describe signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes (if the primary routes could be blocked by releases of hazardous secondary material or fires).
- c) Copies of Contingency Plan. The facility owner or operator must do as follows with the contingency plan and all revisions to the plan:
- 1) Maintain a copy at the facility; and
 - 2) Submit a copy to every local police department, fire department, hospital, and State and local emergency response team that may be called upon to provide emergency services.
- d) Amendment of Contingency Plan. The facility owner or operator must review and immediately amend its contingency plan, if necessary, whenever any of the following occurs:
- 1) Applicable regulations are revised;
 - 2) The plan fails in an emergency;
 - 3) The facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous secondary material or hazardous secondary material constituents, or the facility changes the response necessary in an emergency;
 - 4) The list of emergency coordinators changes; or
 - 5) The list of emergency equipment changes.

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- e) Emergency Coordinator. At all times, there must be at least one employee, either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time), with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of hazardous secondary materials handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled out in subsection (f). Applicable responsibilities for the emergency coordinator vary, depending on factors like type and variety of hazardous secondary materials handled by the facility, and type and complexity of the facility.

- f) Emergency Procedures
 - 1) Whenever there is an imminent or actual emergency, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:
 - A) Activate internal facility alarms or communication systems, when applicable, to notify all facility personnel; and
 - B) Notify appropriate State or local agencies with designated response roles if their help is needed.
 - 2) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.
 - 3) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

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- 4) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, the emergency coordinator must report its findings as follows:
 - A) If the emergency coordinator's assessment indicates that evacuating local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and
 - B) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800-424-8802). The report must include the following information:
 - i) The name and telephone number of the reporter;
 - ii) The name and address of facility;
 - iii) The time and type of incident (e.g., release, fire);
 - iv) The name and quantity of materials involved, to the extent known;
 - v) The extent of injuries, if any; and
 - vi) The possible hazards to human health, or the environment, outside the facility.
- 5) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous secondary material at the facility. These measures must include, when applicable, stopping processes and operations, collecting, and containing released material, and removing or isolating containers.

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- 6) If the facility stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
- 7) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered secondary material, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the hazardous secondary material generator can demonstrate, in compliance with Section 721.103(c) or (d), that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage the recovered material in compliance with all applicable requirements of 35 Ill. Adm. Code 722, 723, and 725.
- 8) The emergency coordinator must ensure that the following has occurred in the affected areas of the facility:
 - A) Any secondary material that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and
 - B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
- 9) The hazardous secondary material generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the emergency coordinator must submit a written report on the incident to the Regional Administrator. The report must include the following information:
 - A) The name, address, and telephone number of the hazardous secondary material generator;
 - B) The name, address, and telephone number of the facility;
 - C) The date, time, and type of incident (e.g., fire, explosion, etc.);
 - D) The name and quantity of materials involved;

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- E) The extent of injuries, if any;
 - F) An assessment of actual or potential hazards to human health or the environment, when this is applicable; and
 - G) The estimated quantity and disposition of recovered material that resulted from the incident.
- g) Personnel Training. All employees must be thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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

5
6 PART 723
7 STANDARDS APPLICABLE TO
8 TRANSPORTERS OF HAZARDOUS WASTE

9
10 SUBPART A: GENERAL

11

12 Section	Scope
13 723.110	USEPA Identification Number
14 723.111	Transfer Facility Requirements
15 723.112	Electronic Reporting
16 723.113	

17
18 SUBPART B: COMPLIANCE WITH THE MANIFEST
19 SYSTEM AND RECORDKEEPING

20

21 Section	
22 723.120	The Manifest System
23 723.121	Compliance with the Manifest
24 723.122	Recordkeeping
25 723.125	Electronic Manifest Signatures

26
27 SUBPART C: HAZARDOUS WASTE DISCHARGES

28

29 Section	
30 723.130	Immediate Action
31 723.131	Discharge Cleanup

32
33 AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the
34 Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

35
36 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and
37 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg.
38 11961, effective July 24, 1985; amended in R86-19 at 10 Ill. Reg. 20718, effective December 2,
39 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at
40 11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945,
41 effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective
42 December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September
43 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006;

44 amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006; amended
 45 in R07-5/R07-14 at 32 Ill. Reg. 11969, effective July 14, 2008; amended in R11-2/R11-16 at 35
 46 Ill. Reg. 17959, effective October 14, 2011; amended in R15-1 at 39 Ill. Reg. 1711, effective
 47 January 12, 2015; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 22595, effective
 48 November 19, 2018; amended in R19-3 at 43 Ill. Reg. 585, effective December 6, 2018;
 49 amended in R19-11 at 43 Ill. Reg. 5995, effective May 2, 2019; amended in R20-8/R20-16 at 44
 50 Ill. Reg. 15331, effective September 3, 2020; amended in R26-4 at 50 Ill. Reg. _____, effective
 51 _____.

52
 53 **SUBPART B: COMPLIANCE WITH THE MANIFEST**
 54 **SYSTEM AND RECORDKEEPING**
 55

56 **Section 723.120 The Manifest System**
 57

58 a) No Acceptance Without a Manifest
 59

- 60 1) Manifest Requirement. A transporter may not accept hazardous waste
 61 from a generator unless the transporter is also provided with a manifest
 62 form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-
 63 22A) signed in accordance with the provisions of 35 Ill. Adm. Code
 64 723.123, or is provided with an e-Manifest that is obtained, completed,
 65 and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3) and
 66 signed with a valid and enforceable electronic signature as described in 35
 67 Ill. Adm. Code 722.125.
 68
 69 2) Exports. For exports of hazardous waste subject to Subpart H of 35 Ill.
 70 Adm. Code 722, a transporter may not accept hazardous waste without a
 71 manifest signed by the generator in ~~compliance~~ ~~accordance~~ with this
 72 Section, as appropriate, and ~~for exports occurring under the terms of a~~
 73 ~~consent issued by USEPA on or after December 31, 2016,~~ a movement
 74 document that includes all information required by 35 Ill. Adm. Code
 75 722.183~~(d)~~.
 76
 77 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an
 78 applicability statement that became obsolete for the purposes of the
 79 Illinois rules on September 6, 2006. This statement maintains structural
 80 parity with the corresponding federal regulations.
 81
 82 4) Use of e-Manifest – Legal Equivalence to Paper Forms for Participating
 83 Transporters. E-Manifests that are obtained, completed, and transmitted in
 84 accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance
 85 with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the
 86 legal equivalent of paper manifest forms bearing handwritten signatures,

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and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

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

BOARD NOTE: The Board has rendered the language "any requirement in these regulations" in corresponding 40 CFR 263.20(a)(4)(i) through (a)(4)(iv) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a)(4).

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- 5) A transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter's own electronic equipment, or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.
 - 6) Special Procedures When e-Manifest Is Not Available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, then the following requirements apply:
 - A) The transporter in possession of the hazardous waste when the e-Manifest becomes unavailable must reproduce sufficient copies of the printed manifest that is carried on the transport vehicle under subsection (a)(4)(C) or obtain and complete another paper manifest for this purpose. The transporter must reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.
 - B) On each printed copy, the transporter must include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the e-Manifest System, must include (if not pre-printed on the replacement manifest) the manifest tracking number of the e-Manifest that is replaced by the paper manifest, and must also include a brief explanation why the e-Manifest was not available for completing the tracking of the shipment electronically.
 - C) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.
 - D) From the point at which the e-Manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies must be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

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- 7) Special Procedures for Electronic Signature Methods Undergoing Tests. If a transporter using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter must sign the e-Manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with subsection (a)(4)(C)(i). This printed copy bearing the generator's and transporter's ink signatures must also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy must be delivered to the designated facility with the waste materials.
- 8) This subsection (a)(8) corresponds with 40 CFR 263.20(a)(8), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules.
- 9) Post-Receipt Manifest Data Corrections. After a facility has certified [that the manifest is complete, by signing it at the time of submission to the USEPA e-Manifest system, to the receipt of hazardous wastes by signing Item 20 of the manifest](#), any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. [If corrections requested by the USEPA for portions of the manifest that a transporter is required to complete, the transporter must address the data correction within 30 days from the date of the request. Data correction submissions must be made electronically via](#) ~~A transporter may participate electronically in~~ the post-receipt data corrections process ~~by following the process~~ described in 35 Ill. Adm. Code ~~725724.171(l)~~, which applies to corrections made to either paper or electronic ~~manifests~~ [manifest records](#).
- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- c) [The transporter must ensure that the manifest accompanies the hazardous waste. For exports, the transporter must ensure that a movement document that includes all information required by Section 722.183\(d\) also accompanies the hazardous waste. For imports, the transporter must ensure that a movement document that](#)

~~includes all information required by Section 722.184(d) also accompanies the hazardous waste. In the case of exports occurring under the terms of a consent issued by USEPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) also accompanies the hazardous waste. In the case of imports occurring under the terms of a consent issued by USEPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 35 Ill. Adm. Code 722.184(d) also accompanies the hazardous waste.~~

- d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
- 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;
 - 2) It must retain one copy of the manifest in accordance with Section 723.122; and
 - 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.
- e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
- 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;
 - 2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports or imports occurring under the terms of a consent issued by USEPA, a movement document that includes all information required by 35 Ill. Adm. Code 722.183(d) or 722.184(d) accompanies the hazardous waste;
 - 3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;
 - 4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the

257 water (bulk shipment) transporter on the manifest and forwards it to the
258 designated facility; and

259
260 5) A copy of the shipping paper or manifest is retained by each water (bulk
261 shipment) transporter in accordance with Section 723.122.

262
263 f) For shipments involving rail transportation, the following requirements apply
264 instead of subsections (c), (d), and (e), which do not apply:

265
266 1) When accepting hazardous waste from a non-rail transporter, the initial
267 rail transporter must do the following:

268
269 A) It must sign and date the manifest acknowledging acceptance of
270 the hazardous waste;

271
272 B) It must return a signed copy of the manifest to the non-rail
273 transporter;

274
275 C) It must forward at least three copies of the manifest to the
276 following entities:

277
278 i) The next non-rail transporter, if any;

279
280 ii) The designated facility, if the shipment is delivered to that
281 facility by rail; or

282
283 iii) The last rail transporter designated to handle the waste in
284 the United States; and

285
286 D) It must retain one copy of the manifest and rail shipping paper in
287 accordance with Section 723.122.

288
289 2) Rail transporters must ensure that a shipping paper containing all the
290 information required on the manifest (excluding the USEPA identification
291 numbers, generator certification and signatures) and, for exports or
292 imports occurring under the terms of a consent issued by USEPA, a
293 movement document that includes all information required by 35 Ill. Adm.
294 Code 722.183(d) or 722.184(d) accompanies the hazardous waste at all
295 times.

296
297 BOARD NOTE: Intermediate rail transporters are not required to sign the
298 manifest, movement document, or shipping paper.
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341
- 3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:
 - A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.
 - 4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:
 - A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and
 - B) It must retain a copy of the manifest in accordance with Section 723.122.
 - 5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.
 - g) Transporters that transport hazardous waste out of the United States must do the following:
 - 1) Sign and date the manifest in the International Shipments block [on the Continuation Sheet \(USEPA Form 8700-22A\)](#) to indicate the date that the hazardous waste left the United States [or has been delivered to a seaport of exit for loading onto an international carrier](#);
 - 2) Retain one copy in accordance with Section 723.122(d);
 - 3) [Compliance date for manifest returns on January 22, 2025. Beginning on January 22, 2025, return signed, top copies of the manifest and continuation sheet to the generator. On December 1, 2025, this paragraph \(g\)\(3\) no longer applies, and paragraph \(g\)\(4\) of this section applies instead. Return a signed copy of the manifest to the generator; and](#)
 - 4) [Compliance date for manifest returns on December 1, 2025. Beginning on December 1, 2025, return signed, top copies of the manifest and](#)

Commented [SKA1]: Capitalize "section" and change paragraph to subsection. This comment applies throughout.

~~continuation sheet to the exporter. For paper manifests only, the transporter must do the following:~~

- ~~A) Send a copy of the manifest to the e-Manifest System in accordance with the allowable methods specified in 35 Ill. Adm. Code 724.171(a)(2)(E); and~~
- ~~B) For shipments initiated prior to December 31, 2017, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.~~

- h) A transporter transporting hazardous waste from a generator that generates greater than 100 kg (220 lbs) but less than 1,000 kg (2,200 lbs) of hazardous waste in a calendar month need not comply with this Section or Section 723.122 provided that:
 - 1) The waste is being transported under a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);
 - 2) The transporter records, on a log or shipping paper, the following information for each shipment:
 - A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.118) of the generator of the waste;
 - B) The quantity of waste accepted;
 - C) All shipping information required by the United States Department of Transportation;
 - D) The date the waste is accepted; and
 - 3) The transporter carries this record when transporting waste to the reclamation facility; and
- 4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

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

5
6 PART 724
7 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
8 TREATMENT, STORAGE, AND DISPOSAL FACILITIES

9
10 SUBPART A: GENERAL PROVISIONS

11
12 Section
13 724.101 Purpose, Scope, and Applicability
14 724.103 Relationship to Interim Status Standards
15 724.104 Electronic Reporting

16
17 SUBPART B: GENERAL FACILITY STANDARDS

18
19 Section
20 724.110 Applicability
21 724.111 USEPA Identification Number
22 724.112 Required Notices
23 724.113 General Waste Analysis
24 724.114 Security
25 724.115 General Inspection Requirements
26 724.116 Personnel Training
27 724.117 General Requirements for Ignitable, Reactive, or Incompatible Wastes
28 724.118 Location Standards
29 724.119 Construction Quality Assurance Program

30
31 SUBPART C: PREPAREDNESS AND PREVENTION

32
33 Section
34 724.130 Applicability
35 724.131 Design and Operation of Facility
36 724.132 Required Equipment
37 724.133 Testing and Maintenance of Equipment
38 724.134 Access to Communications or Alarm System
39 724.135 Required Aisle Space
40 724.137 Arrangements with Local Authorities

41
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43

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47	724.152	Content of Contingency Plan
48	724.153	Copies of Contingency Plan
49	724.154	Amendment of Contingency Plan
50	724.155	Emergency Coordinator
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59	724.174	Availability, Retention, and Disposition of Records
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61	724.176	Unmanifested Waste Report
62	724.177	Additional Reports

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64
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71	724.194	Concentration Limits
72	724.195	Point of Compliance
73	724.196	Compliance Period
74	724.197	General Groundwater Monitoring Requirements
75	724.198	Detection Monitoring Program
76	724.199	Compliance Monitoring Program
77	724.200	Corrective Action Program
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107	724.247	Liability Requirements
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117	724.273	Management of Containers
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124		
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136	724.297	Closure and Post-Closure Care
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153	724.331	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027
154		
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162	724.352	Action Leakage Rate
163	724.353	Response Action Plan
164	724.354	Monitoring and Inspection
165	724.356	Special Requirements for Ignitable or Reactive Waste
166	724.357	Special Requirements for Incompatible Wastes
167	724.358	Closure and Post-Closure Care
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171
172

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176	724.372	Treatment Demonstration
177	724.373	Design and Operating Requirements
178	724.376	Food-Chain Crops
179	724.378	Unsaturated Zone Monitoring
180	724.379	Recordkeeping
181	724.380	Closure and Post-Closure Care
182	724.381	Special Requirements for Ignitable or Reactive Waste
183	724.382	Special Requirements for Incompatible Wastes
184	724.383	Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027
185		

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191	724.401	Design and Operating Requirements
192	724.402	Action Leakage Rate
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206		
207		
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210	724.441	Waste Analysis
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212	724.443	Performance Standards
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214	724.445	Operating Requirements
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218		SUBPART S: SPECIAL PROVISIONS FOR CLEANUP
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221	724.650	Applicability of Corrective Action Management Unit Regulations
222	724.651	Grandfathered Corrective Action Management Units
223	724.652	Corrective Action Management Units
224	724.653	Temporary Units
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231	724.670	Applicability
232	724.671	Assessment of Existing Drip Pad Integrity
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237		
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241	724.700	Applicability
242	724.701	Environmental Performance Standards
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253	724.934	Test Methods and Procedures
254	724.935	Recordkeeping Requirements
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260	724.950	Applicability
261	724.951	Definitions
262	724.952	Standards: Pumps in Light Liquid Service
263	724.953	Standards: Compressors
264	724.954	Standards: Pressure Relief Devices in Gas/Vapor Service
265	724.955	Standards: Sampling Connecting Systems
266	724.956	Standards: Open-ended Valves or Lines
267	724.957	Standards: Valves in Gas/Vapor or Light Liquid Service
268	724.958	Standards: Pumps, Valves, Pressure Relief Devices, and Other Connectors
269	724.959	Standards: Delay of Repair
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271	724.961	Alternative Percentage Standard for Valves
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281	724.980	Applicability
282	724.981	Definitions
283	724.982	Standards: General
284	724.983	Waste Determination Procedures
285	724.984	Standards: Tanks
286	724.985	Standards: Surface Impoundments
287	724.986	Standards: Containers
288	724.987	Standards: Closed-Vent Systems and Control Devices
289	724.988	Inspection and Monitoring Requirements
290	724.989	Recordkeeping Requirements
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292	724.991	Alternative Control Requirements for Tanks (Repealed)
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297	724.1100	Applicability
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300		
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303 Section

304 724.1200 Applicability

305 724.1201 Design and Operating Standards

306 724.1202 Closure and Post-Closure Care

307

308 724.APPENDIX A Recordkeeping Instructions

309 724.APPENDIX B EPA Report Form and Instructions (Repealed)

310 724.APPENDIX D Cochran's Approximation to the Behrens-Fisher Student's T-Test

311 724.APPENDIX E Examples of Potentially Incompatible Waste

312 724.APPENDIX I Groundwater Monitoring List

313

314 AUTHORITY: Implementing Sections 7.2, 22.4, and 22.23e and authorized by Section 27 of the

315 Environmental Protection Act [415 ILCS 5/7.2, 22.4, 22.23e, and 27].

316

317 SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in

318 R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136,

319 effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986;

320 amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill.

321 Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August

322 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in

323 R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458,

324 effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13,

325 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at

326 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654,

327 effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991;

328 amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg.

329 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26,

330 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-

331 16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487,

332 effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994;

333 amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill.

334 Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636,

335 effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998;

336 amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended

337 in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at

338 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective

339 January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited

340 correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26

341 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective

342 February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in

343 R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill.

344 Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893,

345 effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14,
 346 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-
 347 16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35
 348 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17773, effective
 349 October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1724, effective January 12, 2015; amended
 350 in R16-7 at 40 Ill. Reg. 11726, effective August 9, 2016; amended in R17-14/R17-15/R18-
 351 12/R18-31 at 42 Ill. Reg. 22614, effective November 19, 2018; amended in R19-3 at 43 Ill. Reg.
 352 601, effective December 6, 2018; amended in R19-11 at 43 Ill. Reg. 5999, effective May 2,
 353 2019; amended in R20-8/R20-16 at 44 Ill. Reg. 15347, effective September 3, 2020; amended in
 354 R21-13, R22-13, R24-4 at 48 Ill. Reg. 9892, effective June 20, 2024; amended in R24-12 at 48
 355 Ill. Reg. 17057, effective November 7, 2024; amended in R25-22 at 49 Ill. Reg. 11384, effective
 356 August 27, 2025; amended in R25-12 at 50 Ill. Reg. _____, effective _____.

Commented [SKA1]: R26-4 ?

357
 358 SUBPART B: GENERAL FACILITY STANDARDS
 359

360 **Section 724.112 Required Notices**

- 361
- 362 a) The owner or operator of a facility that is arranging to receive hazardous waste
 363 subject to Subpart H of 35 Ill. Adm. Code 722 from a foreign source must submit
 364 the following required notices:
 365
- 366 1) As required by 35 Ill. Adm. Code 722.184(b), for imports where the
 367 competent authority of the country of export does not require the foreign
 368 exporter to submit to it a notification proposing export and obtain consent
 369 from USEPA and the competent authorities for the countries of transit, the
 370 owner or operator of the facility, if acting as the importer, must provide
 371 notification of the proposed transboundary movement in English to
 372 USEPA using the methods listed in 35 Ill. Adm. Code 722.182(e) at least
 373 60 days before the first shipment is expected to depart the country of
 374 export. The notification may cover up to one year of shipments of wastes
 375 having similar physical and chemical characteristics; the same United
 376 Nations/USDOT identification number from the Hazardous Materials
 377 Table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code
 378 720.111; the same USEPA hazardous waste numbers (from Subpart C or
 379 D of 35 Ill. Adm. Code 721); the waste codes from the lists in the OECD
 380 Guidance Manual, incorporated by reference in 35 Ill. Adm. Code
 381 720.111; and being sent from the same foreign exporter.
 382
- 383 2) As required by 35 Ill. Adm. Code 722.184(d)(2)(O), a copy of the
 384 movement document with all the required signatures within three working
 385 days after receiving the shipment to the foreign exporter ~~and~~ to the
 386 competent authorities of the countries of export and transit that control the
 387 shipment as an export and transit shipment of hazardous waste,

388 respectively, ~~and~~, For shipments received on or after the electronic
 389 import-export reporting compliance date, the receiving facility must close
 390 out the movement document to confirm receipt within three working days
 391 of shipment delivery using the USEPA electronically using USEPA's
 392 Waste Import Export Tracking System (WIETS) or successor system. For
 393 shipments sent from a country with which the USEPA has established an
 394 electronic exchange of movement document tracking data, the receiving
 395 facility may use WIETS or its successor system to send movement
 396 document confirmation data back through the electronic exchange to
 397 foreign exporter and the country of export. The original of the signed
 398 movement document must be maintained at the facility for at least three
 399 years. The owner or operator of a facility may meet this recordkeeping
 400 requirement by retaining electronically submitted documents in the
 401 facility's account on USEPA's WIETS, or its successor system, provided
 402 that copies are readily available for viewing and production upon request
 403 by any USEPA or Agency inspector. An owner or operator of a facility
 404 may not be held liable for the inability to produce the documents for
 405 inspection under this section if the owner or operator of a facility can
 406 demonstrate that the inability to produce the document is due exclusively
 407 to technical difficulty with USEPA's WIETS, or its successor system, for
 408 which the owner or operator of a facility has no responsibility.

- 409
- 410 3) As required by 35 Ill. Adm. Code 722.184(f)(4), if the facility has physical
 411 control of the waste and it must be sent to an alternate facility or returned
 412 to the country of export, the owner or operator of the facility must inform
 413 USEPA, using the methods listed in 35 Ill. Adm. Code 722.184(b)(1) of
 414 the need to return or arrange alternate management of the shipment.
 415
- 416 4) As required by 35 Ill. Adm. Code 722.184(g), the facility owner or
 417 operator must do the following:
 418
- 419 A) Send copies of the signed and dated confirmation of recovery or
 420 disposal, as soon as possible, but no later than thirty days after
 421 completing recovery or disposal on the waste in the shipment and
 422 no later than one calendar year following receipt of the waste, to
 423 the foreign exporter, to the competent authority of the country of
 424 export that controls the shipment as an export of hazardous waste,
 425 and for shipments recycled or disposed of on or after the electronic
 426 import-export reporting compliance date, to the USEPA
 427 electronically using WIETS, or its successor system. For shipments
 428 sent from a country with which the USEPA has established an
 429 electronic exchange of movement document tracking data, the
 430 receiving facility may use WIETS or its successor system to send

431 [confirmation of recovery or disposal data back through the](#)
 432 [electronic exchange to the foreign exporter and the country of](#)
 433 [export.](#) ~~The owner or operator must send copies of the signed and~~
 434 ~~dated confirmation of recovery or disposal, as soon as possible,~~
 435 ~~within 30 days after completing recovery or disposal on the waste~~
 436 ~~in the shipment and within one calendar year after receiving the~~
 437 ~~waste, to the foreign exporter, to the competent authority of the~~
 438 ~~country of export that controls the shipment as an export of~~
 439 ~~hazardous waste. For shipments recycled or disposed of on or after~~
 440 ~~the electronic import-export reporting compliance date, to USEPA~~
 441 ~~electronically using USEPA's WIETS.~~

442
 443 B) If the facility performed any of recovery operations R12, R13, or
 444 RC3 or disposal operations D13 through D15, the owner or
 445 operator must promptly send copies of the confirmation of
 446 recovery or disposal that it receives from the final recovery or
 447 disposal facility within one year of shipment delivery to the final
 448 recovery or disposal facility that performed one of recovery
 449 operations R1 through R11 or RC1 to RC2, or one of disposal
 450 operations D1 through D12 or DC1 to DC2, to the competent
 451 authority of the country of export that controls the shipment as an
 452 export of hazardous waste. On or after the electronic import-
 453 export reporting compliance date, the owner or operator must make
 454 this submission to USEPA electronically using USEPA's WIETS,
 455 or its successor system. The recovery and disposal operations in
 456 this subsection (a)(4)(B) are defined in 35 Ill. Adm. Code 722.181.
 457 [For shipments sent from a country with which the USEPA has](#)
 458 [established an electronic exchange of movement document](#)
 459 [tracking data, the receiving facility may use WIETS or its](#)
 460 [successor system to send confirmation of recovery or disposal data](#)
 461 [back through the electronic exchange to the country of export.](#)

- 462
 463 b) The owner or operator of a facility that receives hazardous waste from an off-site
 464 source (except where the owner or operator is also the generator) must inform the
 465 generator in writing that the owner or operator has the appropriate permits for,
 466 and will accept, the waste that the generator is shipping. The owner or operator
 467 must keep a copy of this written notice as part of the operating record.
 468
 469 c) Before transferring ownership or operation of a facility during its operating life,
 470 or of a disposal facility during the post-closure care period, the owner or operator
 471 must notify the new owner or operator in writing of the requirements of this Part
 472 and 35 Ill. Adm. Code 702 and 703.
 473

BOARD NOTE: An owner's or operator's failure to notify the new owner or operator of the requirements of this Part in no way relieves the new owner or operator of his obligation to comply with all applicable requirements.

(Source: Amended at 50 Ill. Reg. _____, effective _____)

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.171 Use of Manifest System

a) Receipt of Manifested Hazardous Waste

1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2), to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:

A) The owner, operator, or agent must sign and date, by hand, each copy of the manifest;

B) The owner, operator, or agent must note any discrepancies (as defined in Section 724.172) on each copy of the manifest;

C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;

D) This subsection (D) corresponds with 40 CFR 264.71(a)(2)(iv), which USEPA has marked "reserved". This statement maintains structural consistency with the corresponding federal regulations. The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;

E) Paper manifest submission requirements are the following:

i) This subsection (E) corresponds with 40 CFR 264.71(a)(2)(v), which USEPA has marked "reserved". This statement maintains structural consistency with the corresponding federal regulations. The owner, operator, or

Commented [SKA2]: Subsection (a)(2)(D). This comment applies throughout.

agent must send the top copy (Page 1) of any paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing, or in lieu of submitting the paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest and any continuation sheet, or both a data string file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System must be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System; and

ii) Options for compliance on June 30, 2021. Send to the USEPA e-Manifest system an image file of the top copy (Page 1) of the manifest and any continuation sheet, or send to the USEPA e-Manifest system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date; of delivery; and Options for Compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing may be met by the owner or operator only by transmitting to the e-Manifest System an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the e-Manifest System both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System must be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System; and

F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.

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- 3) The owner or operator of a facility receiving hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 from a foreign source must do the following:
 - A) List the relevant waste stream consent number from consent documentation supplied by USEPA to the facility for each waste listed on the manifest in the International Shipments block on the Continuation Sheet (USEPA Form 8700-22A), matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use an additional Continuation Sheet(s) Sheets (USEPA Form 8700-22A); and
 - B) Send a copy of the manifest within 30 days of delivery to USEPA using the addresses listed in 35 Ill. Adm. Code 722.182(e) until the facility can submit such a copy to the USEPA e-Manifest system per subsection (a)(2)(E).
 - b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:
 - 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.
 - 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) Within 30 days of delivery, send a copy (Page 1) of the signed and dated manifest to the USEPA e-Manifest system; and~~The owner or operator~~

603 must send a copy of the signed and dated manifest or a signed and dated
604 copy of the shipping paper (if the manifest has not been received within 30
605 days after delivery) to the generator within 30 days after the delivery; and
606

607 ~~BOARD NOTE: Section 722.123(c) requires the generator to send three~~
608 ~~copies of the manifest to the facility when hazardous waste is sent by rail~~
609 ~~or water (bulk shipment).~~
610

611 5) Retain at the facility a copy of the manifest and shipping paper (if signed
612 in lieu of the manifest at the time of delivery) for at least three years from
613 the date of delivery.
614

615 c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or
616 operator of that facility must comply with the requirements of 35 Ill. Adm. Code
617 722. The provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 are
618 applicable to the on-site accumulation of hazardous wastes by generators.
619 Therefore, the provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117
620 only apply to owners or operators that are shipping hazardous waste that they
621 generated at that facility or operating as a large quantity generator consolidating
622 hazardous waste from a VSQG under 35 Ill. Adm. Code 722.117(f).
623

624 d) International movement documents. As required by 35 Ill. Adm. Code
625 722.184(d)(2)(O), within three working days after the receipt of a shipment
626 subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility
627 must provide a copy of the movement document bearing all required signatures to
628 the foreign exporter and competent authorities of all the countries of export and
629 transit that control the shipment as an export or transit of hazardous waste. For
630 shipments received on or after the electronic import-export reporting
631 compliance date, the receiving facility must close out the movement document to
632 confirm receipt within three working days of shipment delivery using USEPA's
633 WIETS or its successor system to USEPA electronically using USEPA's WIETS.
634 For shipments sent from a country with which USEPA has established an
635 electronic exchange of movement document tracking data, the receiving facility
636 may use WIETS or its successor system to send movement document
637 confirmation data back through the electronic exchange to the foreign exporter
638 and the country of export. The original copy of the movement document must be
639 maintained at the facility for at least three years from the date of signature. The
640 owner or operator of a facility may satisfy this recordkeeping requirement by
641 retaining electronically submitted documents in the facility's account on USEPA's
642 WIETS, provided that copies are readily available for viewing and production if
643 requested by any USEPA or authorized state inspector. No owner or operator of a
644 facility may be held liable for the inability to produce the documents for
645 inspection under this section if the owner or operator of a facility can demonstrate

646 that the inability to produce the document is due exclusively to technical difficulty
 647 with USEPA's WIETS, for which the owner or operator of a facility bears no
 648 responsibility.
 649

650 e) A facility must determine whether the consignment state for a shipment regulates
 651 any additional wastes (beyond those regulated federally) as hazardous wastes
 652 under its state hazardous waste program. A facility must also determine whether
 653 the consignment state or generator state requires the facility to submit any copies
 654 of the manifest to that state.
 655

656 f) Legal Equivalence to Paper Manifests. E-Manifests that are obtained, completed,
 657 transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in
 658 accordance with this Section in lieu of the paper manifest form are the legal
 659 equivalent of paper manifest forms bearing handwritten signatures, and satisfy for
 660 all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain,
 661 complete, sign, provide, use, or retain a manifest.
 662

663 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or
 664 operator of a facility to sign a manifest or manifest certification by hand,
 665 or to obtain a handwritten signature, is satisfied by signing with or
 666 obtaining a valid and enforceable electronic signature within the meaning
 667 of 35 Ill. Adm. Code 722.125.
 668

669 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide,
 670 send, forward, or to return to another person a copy of the manifest is
 671 satisfied when a copy of an e-Manifest is transmitted to the other person.
 672

673 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to
 674 accompany a hazardous waste shipment is satisfied when a copy of an e-
 675 Manifest is accessible during transportation and forwarded to the person or
 676 persons who are scheduled to receive delivery of the hazardous waste
 677 shipment.
 678

679 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or
 680 operator to keep or retain a copy of each manifest is satisfied by the
 681 retention of the facility's e-Manifest copies in its account on the e-
 682 Manifest System, provided that such copies are readily available for
 683 viewing and production if requested by any USEPA or Agency inspector.
 684

685 5) No owner or operator may be held liable for the inability to produce an e-
 686 Manifest for inspection under this Section if the owner or operator can
 687 demonstrate that the inability to produce the e-Manifest is due exclusively

688 to a technical difficulty with the e-Manifest System for which the owner or
 689 operator bears no responsibility.

- 690
- 691 g) An owner or operator may participate in the e-Manifest System either by
 692 accessing the e-Manifest System from the owner's or operator's electronic
 693 equipment, or by accessing the e-Manifest System from portable equipment
 694 brought to the owner's or operator's site by the transporter that delivers the waste
 695 shipment to the facility.
- 696
- 697 h) Special Procedures Applicable to Replacement Manifests. If a facility receives
 698 hazardous waste that is accompanied by a paper replacement manifest for a
 699 manifest that was originated electronically, the following procedures apply to the
 700 delivery of the hazardous waste by the final transporter:
- 701
- 702 1) Upon delivery of the hazardous waste to the designated facility, the owner
 703 or operator must sign and date each copy of the paper replacement
 704 manifest by hand in Item 20 (Designated Facility Certification of Receipt)
 705 and note any discrepancies in Item 18 (Discrepancy Indication Space) of
 706 the paper replacement manifest;
 - 707
 - 708 2) The owner or operator of the facility must give back to the final
 709 transporter one copy of the paper replacement manifest;
 - 710
 - 711 3) Within 30 days after delivery of the hazardous waste to the designated
 712 facility, the owner or operator of the facility must send one signed and
 713 dated copy of the paper replacement manifest to the generator and send an
 714 additional signed and dated copy of the paper replacement manifest to the
 715 e-Manifest System; and
 - 716
 - 717 4) The owner or operator of the facility must retain at the facility one copy of
 718 the paper replacement manifest for at least three years after the date of
 719 delivery.
 - 720
- 721 i) Special Procedures Applicable to Electronic Signature Methods Undergoing
 722 Tests. If an owner or operator using an e-Manifest signs this manifest
 723 electronically using an electronic signature method that is undergoing pilot or
 724 demonstration tests aimed at demonstrating the practicality or legal dependability
 725 of the signature method, the owner or operator must also sign with an ink
 726 signature the facility's certification of receipt or discrepancies on the printed copy
 727 of the manifest provided by the transporter. Upon executing its ink signature on
 728 this printed copy, the owner or operator must retain this original copy among its
 729 records for at least three years after the date of delivery of the waste.
- 730

- 731 j) Imposition of User Fee for Electronic Manifest Submissions
 732
 733 1) As prescribed in 40 CFR 264.1311, incorporated by reference in 35 Ill.
 734 Adm. Code 720.111, and determined in 40 CFR 264.1312, incorporated
 735 by reference in 35 Ill. Adm. Code 720.111, an owner or operator that is a
 736 user of the e-Manifest System must be assessed a user fee by USEPA for
 737 the submission and processing of each e-Manifest and paper manifest.
 738 USEPA has stated that it would update the schedule of user fees and
 739 publish them to the user community, as provided in 40 CFR 264.1313,
 740 incorporated by reference in 35 Ill. Adm. Code 720.111.
 741
 742 2) An owner or operator subject to user fees under this Section must make
 743 user fee payments in accordance with the requirements of 40 CFR
 744 264.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject
 745 to the informal fee dispute resolution process of 40 CFR 264.1316,
 746 incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the
 747 sanctions for delinquent payments under 40 CFR 264.1315, incorporated
 748 by reference in 35 Ill. Adm. Code 720.111.
 749
 750 k) E-Manifest Signatures. E-Manifest signatures must meet the criteria described in
 751 35 Ill. Adm. Code 722.125.
 752
 753 l) Post-Receipt Manifest Data Corrections. After a facility has certified [that the](#)
 754 [manifest is complete, by signing it at the time of submission to the USEPA e-](#)
 755 [Manifest system, any post-receipt stat corrections may be submitted at any time](#)
 756 [by any interested person\(e.g., waste handler\) named on the manifest](#)~~to the receipt~~
 757 [of hazardous wastes by signing Item 20 of the manifest, any interested person](#)
 758 [\(i.e., any waste handler shown on the manifest or the Agency\) may submit any](#)
 759 [post receipt data corrections at any time. If corrections are requested by the](#)
 760 [Agency for portions of the manifest that a designated facility is required to](#)
 761 [complete, the facility must make the data correction within 30 days from the date](#)
 762 [of the request.](#)
 763
 764 1) An interested person must make all corrections to manifest data by
 765 electronic submission, either by directly entering corrected data to the
 766 web-based service provided in the e-Manifest System for such corrections,
 767 or by an upload of a data file containing data corrections relating to one or
 768 more previously submitted manifests.
 769
 770 2) Each correction submission must include the following information:
 771
 772 A) The Manifest Tracking Number and date of receipt by the facility
 773 of the original manifests for which data are being corrected;

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- B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.
- 3) Each correction submission must include a statement that the person submitting the corrections certifies that, to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:
- A) The person must execute the certification statement with a valid electronic signature; and
 - B) The person may submit a batch upload of data corrections under one certification statement.
- 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.
- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

804 (Source: Amended at 50 Ill. Reg. _____, effective _____)

805
806 **Section 724.172 Manifest Discrepancies**

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- a) "Manifest discrepancies" are defined as any one of the following:
 - 1) Significant differences (as defined by subsection (b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;
 - 2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

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- 3) Container residues, which are residues that exceed the quantity limits for empty containers in 35 Ill. Adm. Code 721.107(b) and 726.607.

 - b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, like a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, like waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

 - c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within ~~20~~45 days after receiving the waste, the owner or operator must:
 - ~~immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.~~
 - 1) [Immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.](#)
 - 2) [Beginning December 1 2025, immediately submit a Discrepancy report to the USEPA e-manifest system describing the discrepancy and attempt to reconcile it, and a copy of the e-manifest or shipping paper at issue. Beginning on December 1, 2025, the USEPA will no longer accept mailed paper Discrepancy Reports from facilities.](#)

 - d) Rejection of Hazardous Waste
 - 1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator before sending the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.
 - 2) While the facility owner or operator is making arrangements to send rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or

- 860 the facility owner or operator must provide for secure, temporary custody
 861 of the waste, pending delivery of the waste to the first transporter
 862 designated on the manifest prepared under subsection (e) or (f).
 863
- 864 e) Except as provided in subsection (e)(7), for full or partial load rejections and
 865 residues that are to be sent off-site to an alternate facility, the facility owner or
 866 operator is required to prepare a new manifest complying with 35 Ill. Adm. Code
 867 722.120(a) and the instructions in subsections (e)(1) through (e)(6):
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- 869 1) The facility owner or operator must write the generator's USEPA
 870 identification number in Item 1 of the new manifest. The facility owner or
 871 operator must write the generator's name and mailing address in Item 5 of
 872 the new manifest. If the mailing address is different from the generator's
 873 site address, then the facility owner or operator must write the generator's
 874 site address in the designated space in Item 5.
 875
 - 876 2) The facility owner or operator must write the name of the alternate
 877 designated facility and the facility's USEPA identification number in the
 878 designated facility block (Item 8) of the new manifest.
 879
 - 880 3) The facility owner or operator must copy the manifest tracking number
 881 found in Item 4 of the old manifest to the Special Handling and Additional
 882 Information Block of the new manifest, and indicate that the shipment is a
 883 residue or rejected waste from the previous shipment.
 884
 - 885 4) The facility owner or operator must copy the manifest tracking number
 886 found in Item 4 of the new manifest to the manifest reference number line
 887 in the Discrepancy Block of the old manifest (Item 18a).
 888
 - 889 5) The facility owner or operator must write the USDOT description for the
 890 rejected load or the residue in Item 9 (USDOT Description) of the new
 891 manifest and write the container types, quantity, and volumes of waste.
 892
 - 893 6) The facility owner or operator must sign the Generator's/Offeror's
 894 Certification to certify, as the offeror of the shipment, that the waste has
 895 been properly packaged, marked and labeled and is in proper condition for
 896 transportation, and mail a signed copy of the manifest to the generator
 897 identified in Item 5 of the new manifest.
 898
 - 899 7) For full load rejections that are made while the transporter remains present
 900 at the facility, the facility owner or operator may forward the rejected
 901 shipment to the alternate facility by completing Item 18b of the original
 902 manifest and supplying the information on the next destination facility in

the Alternate Facility space. The facility owner or operator must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (e)(1) through (e)(6).

- f) Except as provided in subsection (f)(7), for rejected wastes and residues that must be sent back to the generator, the facility owner or operator is required to prepare a new manifest complying with 35 Ill. Adm. Code 722.120(a) and the instructions in subsections (f)(1) through (f)(6) and (f)(8):
- 1) The facility owner or operator must write the facility's USEPA identification number in Item 1 of the new manifest. The facility owner or operator must write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then the facility owner or operator must write the facility's site address in the designated space for Item 5 of the new manifest.
 - 2) The facility owner or operator must write the name of the initial generator and the generator's USEPA identification number in the designated facility block (Item 8) of the new manifest.
 - 3) The facility owner or operator must copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.
 - 4) The facility owner or operator must copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest (Item 18a).
 - 5) The facility owner or operator must write the USDOT description for the rejected load or the residue in Item 9 (USDOT Description) of the new manifest and write the container types, quantity, and volumes of waste.
 - 6) The facility owner or operator must sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.
 - 7) For full load rejections that are made while the transporter remains at the facility, the facility owner or operator may return the shipment to the generator with the original manifest by completing Item 18b of the

manifest and supplying the generator's information in the Alternate Facility space. The facility owner or operator must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility owner or operator must use a new manifest and comply with subsections (f)(1) through (f)(6) and (f)(8).

8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility owner or operator must also comply with the exception reporting requirements in 35 Ill. Adm. Code 722.142(a).

g) If a facility owner or operator rejects a waste or identifies a container residue that exceeds the quantity limits for empty containers in 35 Ill. Adm. Code 721.107(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility owner or operator must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility owner or operator must also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility owner or operator must retain the amended manifest for at least three years from the date of amendment, and must, within 30 days, send a copy of the amended manifest to the transporter ~~and generator~~ that received copies before being amended. [Facilities are not required to send the amended manifest to any transporter who is registered in the USEPA's e-Manifest system. Registered transporters may obtain the signed and dated copy of a completed manifest from the USEPA e-Manifest system in lieu of receiving the manifest through U.S. postal mail.](#)

(Source: Amended at 50 Ill. Reg. _____, effective _____)

Section 724.176 Unmanifested Waste Report

a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper, as described by 35 Ill. Adm. Code 723.120(e), and if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code 260 through 265, then the owner or operator must prepare and submit a letter to the Agency within 15 days after receiving the waste. The unmanifested waste report must contain the following information:

1) The USEPA identification number, name, and address of the facility;

- 989 2) The date the facility received the waste;
- 990
- 991 3) The USEPA identification number, name, and address of the generator and
- 992 the transporter, if available;
- 993
- 994 4) A description and the quantity of each unmanifested hazardous waste the
- 995 facility received;
- 996
- 997 5) The method of treatment, storage, or disposal for each hazardous waste;
- 998
- 999 6) The certification signed by the owner or operator of the facility or its
- 1000 authorized representative; and
- 1001
- 1002 7) A brief explanation of why the waste was unmanifested, if known.

1003 b) Beginning on December 1, 2025, if a facility accepts for treatment, storage, or
1004 disposal any hazardous waste from an off-site source without an accompanying
1005 manifest, or without an accompanying shipping paper as described by Section
1006 723.120(e), and if the waste is not excluded from the manifest requirement by this
1007 chapter, then the owner or operator must prepare an electronic Unmanifested
1008 Waste Report in the USEPA e-Manifest system for submission to the USEPA
1009 within 15 days after receiving the waste. The Unmanifested Waste Report must
1010 contain the following information:
1011 This subsection (b) corresponds with 40 CFR
1012 264.76(b), which USEPA has marked "reserved". This statement maintains
1013 structural consistency with the corresponding federal regulations.

- 1014
- 1015 1) The USEPA identification number, name and address of the facility;
- 1016
- 1017 2) The date the facility received the waste;
- 1018
- 1019 3) The USEPA identification number, name and address of the generator and
- 1020 the transporter, if available;
- 1021
- 1022 4) A description and the quantity of each unmanifested hazardous waste the
- 1023 facility received;
- 1024
- 1025 5) The method of treatment, storage, or disposal for each hazardous waste;
- 1026
- 1027 6) The certification signed by the owner or operator of the facility or his
- 1028 authorized representative; and
- 1029
- 1030 7) A brief explanation of why the waste was unmanifested, if known.
- 1031

Commented [SKA3]: What is a chapter in this context?

1032 BOARD NOTE: Small quantities of hazardous waste are excluded from regulation under
1033 this Part and do not require a manifest. Where a facility receives unmanifested hazardous
1034 wastes, USEPA has suggested that the owner or operator obtain from each generator a
1035 certification that the waste qualifies for exclusion. Otherwise, USEPA has suggested that
1036 the owner or operator file an unmanifested waste report for the hazardous waste
1037 movement.

1038
1039 (Source: Amended at 50 Ill. Reg. _____, effective _____)
1040

1041 SUBPART H: FINANCIAL REQUIREMENTS
1042

1043 **Section 724.243 Financial Assurance for Closure**
1044

1045 An owner or operator of each facility must establish financial assurance for closure of the
1046 facility. The owner or operator must choose from the options that are specified in subsections (a)
1047 through (f).

1048 a) Closure Trust Fund
1049

- 1050
- 1051 1) An owner or operator may satisfy the requirements of this Section by
1052 establishing a closure trust fund that conforms to the requirements of this
1053 subsection (a) and submitting an original signed duplicate of the trust
1054 agreement to the Agency. An owner or operator of a new facility must
1055 submit the original signed duplicate of the trust agreement to the Agency
1056 at least 60 days before the date on which hazardous waste is first received
1057 for treatment, storage or disposal. The trustee must be an entity that has
1058 the authority to act as a trustee and whose trust operations are regulated
1059 and examined by a federal or State agency.
1060
 - 1061 2) The wording of the trust agreement must be that specified in Section
1062 724.251, and the trust agreement must be accompanied by a formal
1063 certification of acknowledgment, as specified in Section 724.251.
1064 Schedule A of the trust agreement must be updated within 60 days after a
1065 change in the amount of the current closure cost estimate covered by the
1066 agreement.
1067
 - 1068 3) Payments into the trust fund must be made annually by the owner or
1069 operator over the term of the initial RCRA permit or over the remaining
1070 operating life of the facility as estimated in the closure plan, whichever
1071 period is shorter; this period is hereafter referred to as the "pay-in period".
1072 The payments into the closure trust fund must be made as follows:
1073
1074 A) For a new facility, the first payment must be made before the

initial receipt of hazardous waste for treatment, storage, or disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Agency before this initial receipt of hazardous waste. The first payment must be at least equal to the current closure cost estimate, except as provided in subsection (g), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by the following formula:

$$\text{Next Payment} = \frac{(\text{CE}-\text{CV})(\text{CE}-\text{CV})}{\text{Y}}$$

Where:

- CE = the current closure cost estimate
- CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period

- B) If an owner or operator establishes a trust fund as specified in 35 Ill. Adm. Code 725.243(a) and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in subsection (a)(3). Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to 35 Ill. Adm. Code 725. The amount of each payment must be determined by the following formula:

$$\text{Next Payment} = \frac{(\text{CE}-\text{CV})(\text{CE}-\text{CV})}{\text{Y}}$$

Where:

- CE = the current closure cost estimate
- CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period

- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if

- 1106 annual payments were made as specified in subsection (a)(3).
 1107
 1108 5) If the owner or operator establishes a closure trust fund after having used
 1109 one or more alternate mechanisms specified in this Section or in 35 Ill.
 1110 Adm. Code 725.243, its first payment must be in at least the amount that
 1111 the fund would contain if the trust fund were established initially and
 1112 annual payments made according to specifications of this subsection (a)
 1113 and 35 Ill. Adm. Code 725.243, as applicable.
 1114
 1115 6) After the pay-in period is completed, whenever the current closure cost
 1116 estimate changes, the owner or operator must compare the new estimate
 1117 with the trustee's most recent annual valuation of the trust fund. If the
 1118 value of the fund is less than the amount of the new estimate, the owner or
 1119 operator, within 60 days after the change in the cost estimate, must either
 1120 deposit an amount into the fund so that its value after this deposit at least
 1121 equals the amount of the current closure cost estimate or obtain other
 1122 financial assurance as specified in this Section to cover the difference.
 1123
 1124 7) If the value of the trust fund is greater than the total amount of the current
 1125 closure cost estimate, the owner or operator may submit a written request
 1126 to the Agency for release of the amount in excess of the current closure
 1127 cost estimate.
 1128
 1129 8) If an owner or operator substitutes other financial assurance, as specified
 1130 in this Section for all or part of the trust fund, it may submit a written
 1131 request to the Agency for release of the amount in excess of the current
 1132 closure cost estimate covered by the trust fund.
 1133
 1134 9) Within 60 days after receiving a request from the owner or operator for
 1135 release of funds as specified in subsection (a)(7) or (a)(8), the Agency
 1136 must instruct the trustee to release to the owner or operator such funds as
 1137 the Agency specifies in writing.
 1138
 1139 10) After beginning partial or final closure, an owner or operator or another
 1140 person authorized to conduct partial or final closure may request
 1141 reimbursement for closure expenditures by submitting itemized bills to the
 1142 Agency. The owner or operator may request reimbursement for partial
 1143 closure only if sufficient funds are remaining in the trust fund to cover the
 1144 maximum costs of closing the facility over its remaining operating life.
 1145 Within 60 days after receiving bills for partial or final closure activities,
 1146 the Agency must instruct the trustee to make reimbursement in those
 1147 amounts as the Agency specifies in writing if the Agency determines that
 1148 the partial or final closure expenditures are in accordance with the

approved closure plan, or otherwise justified. If the Agency determines that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, it must withhold reimbursement of such amounts as it deems prudent until it determines, in accordance with subsection (i), that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Agency does not instruct the trustee to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.

11) The Agency must agree to termination of the trust when either of the following occurs:

- A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
- B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i).

b) Surety Bond Guaranteeing Payment into a Closure Trust Fund

1) An owner or operator may satisfy the requirements of this Section by obtaining a surety bond that conforms to the requirements of this subsection (b) and submitting the bond to the Agency. An owner or operator of a new facility must submit the bond to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570>
<http://www.fms.treas.gov/e570/>.

- 2) The wording of the surety bond must be that specified in Section 724.251.
- 3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms

1192 of the bond, all payments made thereunder will be deposited by the surety
1193 directly into the standby trust fund in accordance with instructions from
1194 the Agency. This standby trust fund must meet the requirements specified
1195 in subsection (a) except as follows:

- 1196
- 1197 A) An original, signed duplicate of the trust agreement must be
1198 submitted to the Agency with the surety bond; and
 - 1199
 - 1200 B) Until the standby trust fund is funded pursuant to the requirements
1201 of this Section, the following are not required by these regulations:
 - 1202 i) Payments into the trust fund as specified in subsection (a);
 - 1203 ii) Updating of Schedule A of the trust agreement (see 35 Ill.
1204 Adm. Code 724.251) to show current closure cost
1205 estimates;
 - 1206 iii) Annual valuations, as required by the trust agreement; and
 - 1207 iv) Notices of nonpayment as required by the trust agreement.

- 1208
- 1209 4) The bond must guarantee that the owner or operator will do one of the
1210 following:
 - 1211 A) Fund the standby trust fund in an amount equal to the penal sum of
1212 the bond before the beginning of final closure of the facility;
 - 1213 B) Fund the standby trust fund in an amount equal to the penal sum
1214 within 15 days after an order to begin final closure is issued by the
1215 Board or a U.S. district court or other court of competent
1216 jurisdiction; or
 - 1217 C) Provide alternate financial assurance as specified in this Section,
1218 and obtain the Agency's written approval of the assurance
1219 provided, within 90 days after receipt by both the owner or
1220 operator and the Agency of a notice of cancellation of the bond
1221 from the surety.

- 1222
- 1223 5) Under the terms of the bond, the surety will become liable on the bond
1224 obligation when the owner or operator fails to perform as guaranteed by
1225 the bond.

- 1226
- 1227 6) The penal sum of the bond must be in an amount at least equal to the
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- 1235 current closure cost estimate, except as provided in subsection (g).
 1236
 1237 7) Whenever the current closure cost estimate increases to an amount greater
 1238 than the penal sum, the owner or operator, within 60 days after the
 1239 increase, must either cause the penal sum to be increased to an amount at
 1240 least equal to the current closure cost estimate and submit evidence of
 1241 such increase to the Agency or obtain other financial assurance, as
 1242 specified in this Section, to cover the increase. Whenever the current
 1243 closure cost estimate decreases, the penal sum may be reduced to the
 1244 amount of the current closure cost estimate following written approval by
 1245 the Agency.
 1246
 1247 8) Under the terms of the bond, the surety may cancel the bond by sending
 1248 notice of cancellation by certified mail to the owner or operator and to the
 1249 Agency. Cancellation may not occur, however, during the 120 days
 1250 beginning on the date of receipt of the notice of cancellation by both the
 1251 owner or operator and the Agency, as evidenced by the return receipts.
 1252
 1253 9) The owner or operator may cancel the bond if the Agency has given prior
 1254 written consent based on its receipt of evidence of alternate financial
 1255 assurance as specified in this Section.
 1256
 1257 c) Surety Bond Guaranteeing Performance of Closure
 1258
 1259 1) An owner or operator may satisfy the requirements of this Section by
 1260 obtaining a surety bond that conforms to the requirements of this
 1261 subsection (c) and submitting the bond to the Agency. An owner or
 1262 operator of a new facility must submit the bond to the Agency at least 60
 1263 days before the date on which hazardous waste is first received for
 1264 treatment, storage, or disposal. The bond must be effective before this
 1265 initial receipt of hazardous waste. The surety company issuing the bond
 1266 must, at a minimum, be among those listed as acceptable sureties on
 1267 federal bonds in Circular 570 of the U.S. Department of the Treasury.
 1268
 1269 BOARD NOTE: The U.S. Department of the Treasury updates Circular
 1270 570, "Companies Holding Certificates of Authority as Acceptable Sureties
 1271 on Federal Bonds and as Acceptable Reinsuring Companies", on an annual
 1272 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet
 1273 from the following website: [https://fiscal.treasury.gov/about-us/doing-](https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570)
 1274 [business-with-fiscal-service/surety-bonds/circular-570](https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570)
 1275 <http://www.fms.treas.gov/e570/>.
 1276
 1277 2) The wording of the surety bond must be that specified in Section 724.251.

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- 3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust must meet the requirements specified in subsection (a), except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
 - i) Payments into the trust fund, as specified in subsection (a);
 - ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
 - 4) The bond must guarantee that the owner or operator will do the following:
 - A) Perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so; or
 - B) Provide alternative financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
 - 5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final judicial determination or Board order finding that the owner or operator has failed to perform final closure in accordance with the approved closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure, as guaranteed by the bond, or will deposit the amount of the penal

- 1321 sum into the standby trust fund.
1322
- 1323 6) The penal sum of the bond must be in an amount at least equal to the
1324 current closure cost estimate.
1325
- 1326 7) Whenever the current closure cost estimate increases to an amount greater
1327 than the penal sum, the owner or operator, within 60 days after the
1328 increase, must either cause the penal sum to be increased to an amount at
1329 least equal to the current closure cost estimate and submit evidence of
1330 such increase to the Agency or obtain other financial assurance as
1331 specified in this Section. Whenever the current closure cost estimate
1332 decreases, the penal sum may be reduced to the amount of the current
1333 closure cost estimate following written approval by the Agency.
1334
- 1335 8) Under the terms of the bond, the surety may cancel the bond by sending
1336 notice of cancellation by certified mail to the owner or operator and to the
1337 Agency. Cancellation may not occur, however, during the 120 days
1338 beginning on the date of receipt of the notice of cancellation by both the
1339 owner or operator and the Agency, as evidenced by the return receipts.
1340
- 1341 9) The owner or operator may cancel the bond if the Agency has given prior
1342 written consent. The Agency must provide such written consent when
1343 either of the following occurs:
1344
- 1345 A) An owner or operator substitutes alternative financial assurance, as
1346 specified in this Section; or
1347
- 1348 B) The Agency releases the owner or operator from the requirements
1349 of this Section in accordance with subsection (i).
1350
- 1351 10) The surety must not be liable for deficiencies in the performance of
1352 closure by the owner or operator after the Agency releases the owner or
1353 operator from the requirements of this Section in accordance with
1354 subsection (i).
1355
- 1356 d) Closure Letter of Credit
1357
- 1358 1) An owner or operator may satisfy the requirements of this Section by
1359 obtaining an irrevocable standby letter of credit that conforms to the
1360 requirements of this subsection (d) and submitting the letter to the Agency.
1361 An owner or operator of a new facility must submit the letter of credit to
1362 the Agency at least 60 days before the date on which hazardous waste is
1363 first received for treatment, storage, or disposal. The letter of credit must

- 1364 be effective before this initial receipt of hazardous waste. The issuing
1365 institution must be an entity that has the authority to issue letters of credit
1366 and whose letter-of-credit operations are regulated and examined by a
1367 federal or state agency.
1368
- 1369 2) The wording of the letter of credit must be that specified in Section
1370 724.251.
1371
- 1372 3) An owner or operator who uses a letter of credit to satisfy the
1373 requirements of this Section must also establish a standby trust fund.
1374 Under the terms of the letter of credit, all amounts paid pursuant to a draft
1375 by the Agency must be deposited by the issuing institution directly into the
1376 standby trust fund in accordance with instructions from the Agency. This
1377 standby trust fund must meet the requirements of the trust fund specified
1378 in subsection (a), except as follows:
1379
- 1380 A) An original, signed duplicate of the trust agreement must be
1381 submitted to the Agency with the letter of credit; and
1382
- 1383 B) Unless the standby trust fund is funded pursuant to the
1384 requirements of this Section, the following are not required by
1385 these regulations.
1386
- 1387 i) Payments into the trust fund, as specified in subsection (a);
1388
- 1389 ii) Updating of Schedule A of the trust agreement (as specified
1390 in Section 724.251) to show current closure cost estimates;
1391
- 1392 iii) Annual valuations, as required by the trust agreement; and
1393
- 1394 iv) Notices of nonpayment, as required by the trust agreement.
1395
- 1396 4) The letter or credit must be accompanied by a letter from the owner or
1397 operator referring to the letter of credit by number, issuing institution, and
1398 date and providing the following information: the USEPA identification
1399 number, name and address of the facility, and the amount of funds assured
1400 for closure of the facility by the letter of credit.
1401
- 1402 5) The letter of credit must be irrevocable and issued for a period of at least
1403 one year. The letter of credit must provide that the expiration date will be
1404 automatically extended for a period of at least one year unless, at least 120
1405 days before the current expiration date, the issuing institution notifies both
1406 the owner or operator and the Agency by certified mail of a decision not to

- 1407 extend the expiration date. Under the terms of the letter of credit, the 120
1408 days will begin on the date when both the owner or operator and the
1409 Agency have received the notice, as evidenced by the return receipts.
1410
- 1411 6) The letter of credit must be issued in an amount at least equal to the
1412 current closure cost estimate, except as provided in subsection (g).
1413
- 1414 7) Whenever the current closure cost estimate increases to an amount greater
1415 than the amount of the credit, the owner or operator, within 60 days after
1416 the increase, must either cause the amount of the credit to be increased so
1417 that it at least equals the current closure cost estimate and submit evidence
1418 of such increase to the Agency, or obtain other financial assurance, as
1419 specified in this Section, to cover the increase. Whenever the current
1420 closure cost estimate decreases, the amount of the credit may be reduced
1421 to the amount of the current closure cost estimate following written
1422 approval by the Agency.
1423
- 1424 8) Following a final judicial determination or Board order finding that the
1425 owner or operator has failed to perform final closure in accordance with
1426 the closure plan and other permit requirements when required to do so, the
1427 Agency may draw on the letter of credit.
1428
- 1429 9) If the owner or operator does not establish alternative financial assurance,
1430 as specified in this Section, and obtain written approval of such alternative
1431 assurance from the Agency within 90 days after receipt by both the owner
1432 or operator and the Agency of a notice from issuing institution that it has
1433 decided not to extend the letter of credit beyond the current expiration
1434 date, the Agency must draw on the letter of credit. The Agency may delay
1435 the drawing if the issuing institution grants an extension of the term of the
1436 credit. During the last 30 days of any such extension the Agency must
1437 draw on the letter of credit if the owner or operator has failed to provide
1438 alternative financial assurance, as specified in this Section, and obtain
1439 written approval of such assurance from the Agency.
1440
- 1441 10) The Agency must return the letter of credit to the issuing institution for
1442 termination when either of the following occurs:
1443
- 1444 A) An owner or operator substitutes alternative financial assurance, as
1445 specified in this Section; or
1446
- 1447 B) The Agency releases the owner or operator from the requirements
1448 of this Section in accordance with subsection (i).
1449

- 1450 e) Closure Insurance
 1451
 1452 1) An owner or operator may satisfy the requirements of this Section by
 1453 obtaining closure insurance that conforms to the requirements of this
 1454 subsection (e) and submitting a certificate of such insurance to the
 1455 Agency. An owner or operator of a new facility must submit the
 1456 certificate of insurance to the Agency at least 60 days before the date on
 1457 which hazardous waste is first received for treatment, storage, or disposal.
 1458 The insurance must be effective before this initial receipt of hazardous
 1459 waste. At a minimum, the insurer must be licensed to transact the
 1460 business of insurance or be eligible to provide insurance as an excess or
 1461 surplus lines insurer in one or more States.
 1462
 1463 2) The wording of the certificate of insurance must be that specified in
 1464 Section 724.251.
 1465
 1466 3) The closure insurance policy must be issued for a face amount at least
 1467 equal to the current closure cost estimate, except as provided in subsection
 1468 (g). The term "face amount" means the total amount the insurer is
 1469 obligated to pay under the policy. Actual payments by the insurer will not
 1470 change the face amount, although the insurer's future liability will be
 1471 lowered by the amount of the payments.
 1472
 1473 4) The closure insurance policy must guarantee that funds will be available to
 1474 close the facility whenever final closure occurs. The policy must also
 1475 guarantee that, once final closure begins, the insurer will be responsible
 1476 for paying out funds, up to an amount equal to the face amount of the
 1477 policy, upon the direction of the Agency to such party or parties, as the
 1478 Agency specifies.
 1479
 1480 5) After beginning partial or final closure, an owner or operator or any other
 1481 person authorized to conduct closure may request reimbursement for
 1482 closure expenditures by submitting itemized bills to the Agency. The
 1483 owner or operator may request reimbursements for partial closure only if
 1484 the remaining value of the policy is sufficient to cover the maximum costs
 1485 of closing the facility over its remaining operating life. Within 60 days
 1486 after receiving bills for closure activities, the Agency must instruct the
 1487 insurer to make reimbursement in such amounts, as the Agency specifies
 1488 in writing, if the Agency determines that the partial or final closure
 1489 expenditures are in accordance with the approved closure plan or
 1490 otherwise justified. If the Agency determines that the maximum cost of
 1491 closure over the remaining life of the facility will be significantly greater
 1492 than the face amount of the policy, it must withhold reimbursement of

- 1493 such amounts that it deems prudent, until it determines, in accordance with
 1494 subsection (i), that the owner or operator is no longer required to maintain
 1495 financial assurance for closure of the facility. If the Agency does not
 1496 instruct the insurer to make such reimbursements, the Agency must
 1497 provide the owner or operator with a detailed written statement of reasons.
 1498
- 1499 6) The owner or operator must maintain the policy in full force and effect
 1500 until the Agency consents to termination of the policy by the owner or
 1501 operator, as specified in subsection (e)(10). Failure to pay the premium,
 1502 without substitution of alternative financial assurance, as specified in this
 1503 Section, will constitute a significant violation of these regulations,
 1504 warranting such remedy as the Board may impose pursuant to the
 1505 Environmental Protection Act. Such violation will be deemed to begin
 1506 upon receipt by the Agency of a notice of future cancellation, termination
 1507 or failure to renew due to nonpayment of the premium, rather than upon
 1508 the date of expiration.
 1509
- 1510 7) Each policy must contain a provision allowing assignment of the policy to
 1511 a successor owner or operator. Such assignment may be conditional upon
 1512 consent of the insurer, provided such consent is not unreasonably refused.
 1513
- 1514 8) The policy must provide that the insurer may not cancel, terminate, or fail
 1515 to renew the policy except for failure to pay the premium. The automatic
 1516 renewal of the policy must, at a minimum, provide the insured with the
 1517 option of renewal at the face amount of the expiring policy. If there is a
 1518 failure to pay the premium, the insurer may elect to cancel, terminate, or
 1519 fail to renew the policy by sending notice by certified mail to the owner or
 1520 operator and the Agency. Cancellation, termination, or failure to renew
 1521 may not occur, however, during the 120 days beginning with the date of
 1522 receipt of the notice by both the Agency and the owner or operator, as
 1523 evidenced by the return receipts. Cancellation, termination, or failure to
 1524 renew may not occur, and the policy will remain in full force and effect, in
 1525 the event that on or before the date of expiration one of the following
 1526 occurs:
- 1527
- 1528 A) The Agency deems the facility abandoned;
 - 1529
 - 1530 B) The permit is terminated or revoked or a new permit is denied;
 - 1531
 - 1532 C) Closure is ordered by the Board or a U.S. district court or other
 1533 court of competent jurisdiction;
 - 1534
 - 1535 D) The owner or operator is named as debtor in a voluntary or

- 1536 involuntary proceeding under 11 USC (Bankruptcy); or
1537
1538 E) The premium due is paid.
1539
1540 9) Whenever the current closure cost estimate increases to an amount greater
1541 than the face amount of the policy, the owner or operator, within 60 days
1542 after the increase, must either cause the face amount to be increased to an
1543 amount at least equal to the current closure cost estimate and submit
1544 evidence of such increase to the Agency, or obtain other financial
1545 assurance, as specified in this Section to cover the increase. Whenever the
1546 current closure cost estimate decreases, the face amount may be reduced to
1547 the amount of the current closure cost estimate following written approval
1548 by the Agency.
1549
1550 10) The Agency must give written consent to the owner or operator that it may
1551 terminate the insurance policy when either of the following occurs:
1552
1553 A) An owner or operator substitutes alternative financial assurance, as
1554 specified in this Section; or
1555
1556 B) The Agency releases the owner or operator from the requirements
1557 of this Section in accordance with subsection (i).
1558
1559 f) Financial Test and Corporate Guarantee for Closure
1560
1561 1) An owner or operator may satisfy the requirements of this Section by
1562 demonstrating that it passes a financial test, as specified in this subsection
1563 (f). To pass this test the owner or operator must meet the criteria of either
1564 subsection (f)(1)(A) or (f)(1)(B):
1565
1566 A) The owner or operator must have the following:
1567
1568 i) Two of the following three ratios: a ratio of total liabilities
1569 to net worth less than 2.0; a ratio of the sum of net income
1570 plus depreciation, depletion and amortization to total
1571 liabilities greater than 0.1; and a ratio of current assets to
1572 current liabilities greater than 1.5;
1573
1574 ii) Net working capital and tangible net worth each at least six
1575 times the sum of the current closure and post-closure cost
1576 estimates; and the current plugging and abandonment cost
1577 estimates;
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- iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
- B) The owner or operator must have the following:
- i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure estimates and the current plugging and abandonment cost estimates.
- 2) The phrase "current closure and post-closure cost estimates", as used in subsection (f)(1), refers to the cost estimates required to be shown in subsections 1-4 of the letter from the owner's or operator's chief financial officer (see Section 724.251). The phrase "current plugging and abandonment cost estimates", as used in subsection (f)(1), refers to the cost estimates required to be shown in subsections 1-4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).
- 3) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:
- A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251; and
 - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

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- C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:
 - i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, that no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
 - 4) An owner or operator of a new facility must submit the items specified in subsection (f)(3) to the Agency at least 60 days before the date on which hazardous waste is first received for treatment, storage, or disposal.
 - 5) After the initial submission of items specified in subsection (f)(3), the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (f)(3).
 - 6) If the owner or operator no longer meets the requirements of subsection (f)(1) the owner or operator must send notice to the Agency of intent to establish alternative financial assurance, as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternative financial assurance within 120 days after the end of such fiscal year.
 - 7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (f)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (f)(3). If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (f)(1), the owner or operator must provide alternative financial assurance, as specified in this Section, within 30 days after notification of such a finding.
 - 8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the

- 1665 accountant's report on examination of the owner's or operator's financial
 1666 statements (see subsection (f)(3)(B)). An adverse opinion or a disclaimer
 1667 of opinion will be cause for disallowance. The Agency must evaluate
 1668 other qualifications on an individual basis. The owner or operator must
 1669 provide alternative financial assurance, as specified in this Section, within
 1670 30 days after notification of the disallowance.
 1671
- 1672 9) The owner or operator is no longer required to submit the items specified
 1673 in subsection (f)(3) when either of the following occurs:
 1674
- 1675 A) An owner or operator substitutes alternative financial assurance, as
 1676 specified in this Section; or
 1677
- 1678 B) The Agency releases the owner or operator from the requirements
 1679 of this Section in accordance with subsection (i).
 1680
- 1681 10) An owner or operator may meet the requirements of this Section by
 1682 obtaining a written guarantee, hereafter referred to as "corporate
 1683 guarantee". The guarantor must be the direct or higher-tier parent
 1684 corporation of the owner or operator, a firm whose parent corporation is
 1685 also the parent corporation of the owner or operator, or a firm with a
 1686 "substantial business relationship" with the owner or operator. The
 1687 guarantor must meet the requirements for owners or operators in
 1688 subsections (f)(1) through (f)(8), must comply with the terms of the
 1689 corporate guarantee, and the wording of the corporate guarantee must be
 1690 that specified in Section 724.251. The certified copy of the corporate
 1691 guarantee must accompany the items sent to the Agency, as specified in
 1692 subsection (f)(3). One of these items must be the letter from the
 1693 guarantor's chief financial officer. If the guarantor's parent corporation is
 1694 also the parent corporation of the owner or operator, the letter must
 1695 describe the value received in consideration of the guarantee. If the
 1696 guarantor is a firm with a "substantial business relationship" with the
 1697 owner or operator, this letter must describe this "substantial business
 1698 relationship" and the value received in consideration of the guarantee. The
 1699 terms of the corporate guarantee must provide as follows:
 1700
- 1701 A) If the owner or operator fails to perform final closure of a facility
 1702 covered by the corporate guarantee in accordance with the closure
 1703 plan and other permit requirements whenever required to do so, the
 1704 guarantor will do so or establish a trust fund, as specified in
 1705 subsection (a), in the name of the owner or operator.
 1706
- 1707 B) The corporate guarantee will remain in force unless the guarantor

- 1708 sends notice of cancellation by certified mail to the owner or
 1709 operator and to the Agency. Cancellation may not occur, however,
 1710 during the 120 days beginning on the date of receipt of the notice
 1711 of cancellation by both the owner or operator and the Agency, as
 1712 evidenced by the return receipts.
 1713
- 1714 C) If the owner or operator fails to provide alternative financial
 1715 assurance as specified in this Section and obtain the written
 1716 approval of such alternative assurance from the Agency within 90
 1717 days after receipt by both the owner or operator and the Agency of
 1718 a notice of cancellation of the corporate guarantee from the
 1719 guarantor, the guarantor will provide such alternative financial
 1720 assurance in the name of the owner or operator.
 1721
- 1722 g) Use of Multiple Financial Mechanisms. An owner or operator may satisfy the
 1723 requirements of this Section by establishing more than one financial mechanism
 1724 per facility. These mechanisms are limited to trust funds, surety bonds
 1725 guaranteeing payment into a trust fund, letters of credit, and insurance. The
 1726 mechanisms must be as specified in subsections (a), (b), (d), and (e), respectively,
 1727 except that it is the combination of mechanisms, rather than the single
 1728 mechanism, that must provide financial assurance for an amount at least equal to
 1729 the current closure cost estimate. If an owner or operator uses a trust fund in
 1730 combination with a surety bond or a letter of credit, it may use the trust fund as
 1731 the standby trust fund for the other mechanisms. A single standby trust fund may
 1732 be established for two or more mechanisms. The Agency may use any or all of
 1733 the mechanisms to provide for closure of the facility.
 1734
- 1735 h) Use of a Financial Mechanism for Multiple Facilities. An owner or operator may
 1736 use a financial assurance mechanism specified in this Section to meet the
 1737 requirements of this Section for more than one facility. Evidence of financial
 1738 assurance submitted to the Agency must include a list showing, for each facility,
 1739 the USEPA identification number, name, address, and the amount of funds for
 1740 closure assured by the mechanism. The amount of funds available through the
 1741 mechanism must be no less than the sum of funds that would be available if a
 1742 separate mechanism had been established and maintained for each facility. The
 1743 amount of funds available to the Agency must be sufficient to close all of the
 1744 owner or operator's facilities. In directing funds available through the mechanism
 1745 for closure of any of the facilities covered by the mechanism, the Agency may
 1746 direct only the amount of funds designated for that facility, unless the owner or
 1747 operator agrees to the use of additional funds available under the mechanism.
 1748
- 1749 i) Release of the Owner or Operator from the Requirements of This Section. Within
 1750 60 days after receiving certifications from the owner or operator and a qualified

1751 Professional Engineer that final approved closure has been accomplished in
 1752 accordance with the closure plan, the Agency must notify the owner or operator in
 1753 writing that it is no longer required by this Section to maintain financial assurance
 1754 for closure of the facility, unless the Agency determines that closure has not been
 1755 in accordance with the approved closure plan. The Agency must provide the
 1756 owner or operator a detailed written statement of any such determination that
 1757 closure has not been in accordance with the approved closure plan.
 1758

- 1759 j) Appeal. The following Agency actions are deemed to be permit modifications or
 1760 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 1761 702.184(e)(3)):
 1762
- 1763 1) An increase in, or a refusal to decrease the amount of, a bond, letter of
 1764 credit, or insurance;
 - 1765 2) Requiring alternative assurance upon a finding that an owner or operator
 1766 or parent corporation no longer meets a financial test.
 1767

1768 (Source: Amended at 50 Ill. Reg. _____, effective _____)
 1769

1770
 1771 **Section 724.245 Financial Assurance for Post-Closure Care**
 1772

1773 An owner or operator of a hazardous waste management unit subject to the requirements of
 1774 Section 724.244 must establish financial assurance for post-closure care in accordance with the
 1775 approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste
 1776 or the effective date of the regulation, whichever is later. The owner or operator must choose
 1777 from among the following options:
 1778

- 1779 a) Post-Closure Trust Fund
 1780
- 1781 1) An owner or operator may satisfy the requirements of this Section by
 1782 establishing a post-closure trust fund that conforms to the requirements of
 1783 this subsection (a) and submitting an original, signed duplicate of the trust
 1784 agreement to the Agency. An owner or operator of a new facility must
 1785 submit the original, signed duplicate of the trust agreement to the Agency
 1786 at least 60 days before the date on which hazardous waste is first received
 1787 for disposal. The trustee must be an entity that has the authority to act as a
 1788 trustee and whose trust operations are regulated and examined by a federal
 1789 or State agency.
 1790
 - 1791 2) The wording of the trust agreement must be that specified in Section
 1792 724.251 and the trust agreement accompanied by a formal certification of
 1793 acknowledgment (as specified in Section 724.251). Schedule A of the trust

1794 agreement must be updated within 60 days after a change in the amount of
 1795 the current post-closure cost estimate covered by the agreement.

1796
 1797 3) Payments into the trust fund must be made annually by the owner or
 1798 operator over the term of the initial RCRA permit or over the remaining
 1799 operating life of the facility as estimated in the closure plan, whichever
 1800 period is shorter; this period is hereafter referred to as the "pay-in period".
 1801 The payments into the post-closure trust fund must be made as follows:
 1802

1803 A) For a new facility, the first payment must be made before the
 1804 initial receipt of hazardous waste for disposal. A receipt from the
 1805 trustee for this payment must be submitted by the owner or
 1806 operator to the Agency before this initial receipt of hazardous
 1807 waste. The first payment must be at least equal to the current post-
 1808 closure cost estimate, except as provided in subsection (g), divided
 1809 by the number of years in the pay-in period. Subsequent payments
 1810 must be made no later than 30 days after each anniversary date of
 1811 the first payment. The amount of each subsequent payment must
 1812 be determined by the following formula:
 1813

$$\text{Next Payment} = \frac{(\text{CE}-\text{CV})(\text{CE}-\text{CV})}{\text{Y}}$$

1814 Where:

- 1815 CE = the current closure cost estimate
- 1816 CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period

1817 B) If an owner or operator establishes a trust fund, as specified in 35
 1818 Ill. Adm. Code 725.245(a), and the value of that trust fund is less
 1819 than the current post-closure cost estimate when a permit is
 1820 awarded for the facility, the amount of the current post-closure cost
 1821 estimate still to be paid into the trust fund must be paid in over the
 1822 pay-in period as defined in subsection (a)(3). Payments must
 1823 continue to be made no later than 30 days after each anniversary
 1824 date of the first payment made pursuant to 35 Ill. Adm. Code 725.
 1825 The amount of each payment must be determined by the following
 1826 formula:
 1827
 1828

$$\text{Next Payment} = \frac{(\text{CE}-\text{CV})(\text{CE}-\text{CV})}{\text{Y}}$$

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1829
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Where:

- CE = the current closure cost estimate
- CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period

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- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3).
- 5) If the owner or operator establishes a post-closure trust fund after having used one or more alternative mechanisms specified in this Section or in 35 Ill. Adm. Code 725.245, its first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this subsection (a) and 35 Ill. Adm. Code 725.245, as applicable.
- 6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.
- 7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate.
- 8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, it may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.
- 9) Within 60 days after receiving a request from the owner or operator for release of funds, as specified in subsection (a)(7) or (a)(8), the Agency

- 1868 must instruct the trustee to release to the owner or operator such funds as
1869 the Agency specifies in writing.
1870
- 1871 10) During the period of post-closure care, the Agency must approve a release
1872 of funds if the owner or operator demonstrates to the Agency that the
1873 value of the trust fund exceeds the remaining cost of post-closure care.
1874
- 1875 11) An owner or operator or any other person authorized to perform post-
1876 closure care may request reimbursement for post-closure care expenditures
1877 by submitting itemized bills to the Agency. Within 60 days after receiving
1878 bills for post-closure activities, the Agency must instruct the trustee to
1879 make requirements in those amounts that the Agency specifies in writing
1880 if the Agency determines that the post-closure care expenditures are in
1881 accordance with the approved post-closure plan or otherwise justified. If
1882 the Agency does not instruct the trustee to make such reimbursements, the
1883 Agency must provide the owner or operator with a detailed written
1884 statement of reasons.
1885
- 1886 12) The Agency must agree to termination of the trust when either of the
1887 following occurs:
1888
- 1889 A) An owner or operator substitutes alternative financial assurance, as
1890 specified in this Section; or
1891
- 1892 B) The Agency releases the owner or operator from the requirements
1893 of this Section in accordance with subsection (i).
1894
- 1895 b) Surety Bond Guaranteeing Payment into a Post-Closure Trust Fund
1896
- 1897 1) An owner or operator may satisfy the requirements of this Section by
1898 obtaining a surety bond that conforms to the requirements of this
1899 subsection (b) and submitting the bond to the Agency. An owner or
1900 operator of a new facility must submit the bond to the Agency at least 60
1901 days before the date on which hazardous waste is first received for
1902 disposal. The bond must be effective before this initial receipt of
1903 hazardous waste. The surety company issuing the bond must, at a
1904 minimum, be among those listed as acceptable sureties on federal bonds in
1905 Circular 570 of the U.S. Department of the Treasury.
1906
- 1907 BOARD NOTE: The U.S. Department of the Treasury updates Circular
1908 570, "Companies Holding Certificates of Authority as Acceptable Sureties
1909 on Federal Bonds and as Acceptable Reinsuring Companies", on an annual
1910 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet

from the following website: <https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570>
<http://www.fms.treas.gov/c570/>.

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- 2) The wording of the surety bond must be that specified in Section 724.251.
 - 3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a), except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
 - i) Payments into the trust fund, as specified in subsection (a);
 - ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current post-closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
 - 4) The bond must guarantee that the owner or operator will do one of the following:
 - A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;
 - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Board or a U.S. district court or other court of competent jurisdiction; or
 - C) Provide alternative financial assurance as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or

- 1954 operator and the Agency of a notice of cancellation of the bond
1955 from the surety.
1956
- 1957 5) Under the terms of the bond, the surety will become liable on the bond
1958 obligation when the owner or operator fails to perform as guaranteed by
1959 the bond.
1960
- 1961 6) The penal sum of the bond must be in an amount at least equal to the
1962 current post-closure cost estimate, except as provided in subsection (g).
1963
- 1964 7) Whenever the current post-closure cost estimate increases to an amount
1965 greater than the penal sum, the owner or operator, within 60 days after the
1966 increase, must either cause the penal sum to be increased to an amount at
1967 least equal to the current post-closure cost estimate and submit evidence of
1968 such increase to the Agency or obtain other financial assurance, as
1969 specified in this Section, to cover the increase. Whenever the current post-
1970 closure cost estimate decreases, the penal sum may be reduced to the
1971 amount of the current post-closure cost estimate following written
1972 approval by the Agency.
1973
- 1974 8) Under the terms of the bond, the surety may cancel the bond by sending
1975 notice of cancellation by certified mail to the owner or operator and to the
1976 Agency. Cancellation may not occur, however, during the 120 days
1977 beginning on the date of receipt of the notice of cancellation by both the
1978 owner or operator and the Agency, as evidence by the return receipts.
1979
- 1980 9) The owner or operator may cancel the bond if the Agency has given prior
1981 written consent based on its receipt of evidence of alternative financial
1982 assurance, as specified in this Section.
1983
- 1984 c) Surety Bond Guaranteeing Performance of Post-Closure Care
1985
- 1986 1) An owner or operator may satisfy the requirements of this Section by
1987 obtaining a surety bond that conforms to the requirements of this
1988 subsection (c) and submitting the bond to the Agency. An owner or
1989 operator of a new facility must submit the bond to the Agency at least 60
1990 days before the date on which hazardous waste is first received for
1991 disposal. The bond must be effective before this initial receipt of
1992 hazardous waste. The surety company issuing the bond must, at a
1993 minimum, be among those listed as acceptable sureties on federal bonds in
1994 Circular 570 of the U.S. Department of the Treasury.
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BOARD NOTE: The U.S. Department of the Treasury updates Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", on an annual basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet from the following website: <https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570>
<http://www.fms.treas.gov/c570/>.

- 2) The wording of the surety bond must be that specified in Section 724.251.
- 3) The owner or operator who uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust must meet the requirements specified in subsection (a), except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required:
 - i) Payments into the trust fund, as specified in subsection (a);
 - ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current post-closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
- 4) The bond must guarantee that the owner or operator will do either of the following:
 - A) Perform final post-closure care in accordance with the post-closure plan and other requirements of the permit for the facility; or
 - B) Provide alternative financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond

- 2039 from the surety.
2040
2041
2042 5) Under the terms of the bond, the surety will become liable on the bond
2043 obligation when the owner or operator fails to perform as guaranteed by
2044 the bond. Following a final judicial determination or Board order finding
2045 that the owner or operator has failed to perform post-closure care in
2046 accordance with the approved post-closure plan and other permit
2047 requirements, under the terms of the bond the surety will perform post-
2048 closure care in accordance with post-closure plan and other permit
2049 requirements or will deposit the amount of the penal sum into the standby
2050 trust fund.
2051 6) The penal sum of the bond must be in an amount at least equal to the
2052 current post-closure cost estimate.
2053
2054 7) Whenever the current post-closure cost estimate increases to an amount
2055 greater than the penal sum during the operating life of the facility, the
2056 owner or operator, within 60 days after the increase, must either cause the
2057 penal sum to be increased to an amount at least equal to the current post-
2058 closure cost estimate and submit evidence of such increase to the Agency,
2059 or obtain other financial assurance, as specified in this Section. Whenever
2060 the current closure cost estimate decreases during the operating life of the
2061 facility, the penal sum may be reduced to the amount of the current post-
2062 closure cost estimate following written approval by the Agency.
2063
2064 8) During the period of post-closure care, the Agency must approve a
2065 decrease in the penal sum if the owner or operator demonstrates to the
2066 Agency that the amount exceeds the remaining cost of post-closure care.
2067
2068 9) Under the terms of the bond, the surety may cancel the bond by sending
2069 notice of cancellation by certified mail to the owner or operator and to the
2070 Agency. Cancellation may not occur, however, during the 120 days
2071 beginning on the date of receipt of the notice of cancellation by both the
2072 owner or operator and the Agency, as evidenced by the return receipts.
2073
2074 10) The owner or operator may cancel the bond if the Agency has given prior
2075 written consent. The Agency must provide such written consent when
2076 either of the following occurs:
2077
2078 A) An owner or operator substitutes alternative financial assurance as
2079 specified in this Section; or
2080
2081 B) The Agency releases the owner or operator from the requirements

of this Section in accordance with subsection (i).

- 11) The surety will not be liable for deficiencies in the performance of post-closure care by the owner or operator after the Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i).

d) Post-Closure Letter of Credit

- 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (d) and submitting the letter to the Agency. An owner or operator of a new facility must submit the letter of credit to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.
- 2) The wording of the letter of credit must be that specified in Section 724.251.
- 3) An owner or operator who uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements of the trust fund specified in subsection (a), except as follows:
- A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the letter of credit; and
- B) Unless the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
- i) Payments into the trust fund, as specified in subsection (a);
- ii) Updating of Schedule A of the trust agreement (as specified in Section 724.251) to show current post-closure cost estimates;

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- iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
- 4) The letter or credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date and providing the following information: the USEPA identification number, name and address of the facility, and the amount of funds assured for post-closure care of the facility by the letter of credit.
 - 5) The letter of credit must be irrevocable and issued for a period of at least one year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Agency by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.
 - 6) The letter of credit must be issued in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (g).
 - 7) Whenever the current post-closure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.
 - 8) During the period of post-closure care, the Agency must approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the Agency that the amount exceeds the remaining cost of post-closure care.
 - 9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, the Agency may draw on the letter of credit.

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- 10) If the owner or operator does not establish alternative financial assurance, as specified in this Section, and obtain written approval of such alternative assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternative financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.
 - 11) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:
 - A) An owner or operator substitutes alternative financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i).
- e) Post-Closure Insurance
- 1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection (e) and submitting a certificate of such insurance to the Agency. An owner or operator of a new facility must submit the certificate of insurance to the Agency at least 60 days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. At a minimum, the insurer must be licensed to transact the business of insurance or be eligible to provide insurance as an excess or surplus lines insurer in one or more states.
 - 2) The wording of the certificate of insurance must be that specified in Section 724.251.
 - 3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure cost estimate, except as provided in subsection (g). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

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- 4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of facility whenever the post-closure period begins. The policy must also guarantee that, once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency to such party or parties as the Agency specifies.
 - 5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.
 - 6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator as specified in subsection (e)(11). Failure to pay the premium, without substitution of alternative financial assurance as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the Board may impose pursuant to the Environmental Protection Act . Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.
 - 7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
 - 8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as

2254 evidenced by the return receipts. Cancellation, termination, or failure to
 2255 renew may not occur, and the policy will remain in full force and effect, in
 2256 the event that on or before the date of expiration one of the following
 2257 occurs:
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- 2259 A) The Agency deems the facility abandoned;
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- 2261 B) The permit is terminated or revoked or a new permit is denied;
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- 2263 C) Closure is ordered by the Board or a U.S. district court or other
 2264 court of competent jurisdiction;
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- 2266 D) The owner or operator is named as debtor in a voluntary or
 2267 involuntary proceeding under 11 USC (Bankruptcy); or
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- 2269 E) The premium due is paid.
- 2270

2271 9) Whenever the current post-closure cost estimate increases to an amount
 2272 greater than the face amount of the policy during the life of the facility, the
 2273 owner or operator, within 60 days after the increase, must either cause the
 2274 face amount to be increased to an amount at least equal to the current post-
 2275 closure cost estimate and submit evidence of such increase to the Agency
 2276 or obtain other financial assurance, as specified in this Section, to cover
 2277 the increase. Whenever the current post-closure cost estimate decreases
 2278 during the operating life of the facility, the face amount may be reduced to
 2279 the amount of the current post-closure cost estimate following written
 2280 approval by the Agency.
 2281

2282 10) Commencing on the date that liability to make payments pursuant to the
 2283 policy accrues, the insurer must thereafter annually increase the face
 2284 amount of the policy. Such increase must be equivalent to the face
 2285 amount of the policy, less any payments made, multiplied by an amount
 2286 equivalent to 85 percent of the most recent investment rate or of the
 2287 equivalent coupon-issue yield announced by the U.S. Treasury for 26-
 2288 week Treasury securities.
 2289

2290 11) The Agency must give written consent to the owner or operator that the
 2291 owner or operator may terminate the insurance policy when either of the
 2292 following occurs:
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- 2294 A) An owner or operator substitutes alternative financial assurance, as
 2295 specified in this Section; or
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- B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (i).
 - f) Financial Test and Corporate Guarantee for Post-Closure Care
 - 1) An owner or operator may satisfy the requirements of this Section by demonstrating that it passes a financial test as specified in this subsection (f). To pass this test the owner or operator must meet the criteria of either subsection (f)(1)(A) or (f)(1)(B):
 - A) The owner or operator must have the following:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
 - B) The owner or operator must have the following:
 - i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90

percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

- 2) The phrase "current closure and post-closure cost estimates", as used in subsection (f)(1), refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see Section 724.251). The phrase "current plugging and abandonment cost estimates", as used in subsection (f)(1), refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).
- 3) To demonstrate that it meets this test, the owner or operator must submit the following items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer and worded as specified in Section 724.251;
 - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
 - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:
 - i) The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
- 4) An owner or operator of a new facility must submit the items specified in subsection (f)(3) to the Agency at least 60 days before the date on which hazardous waste is first received for disposal.
- 5) After the initial submission of items specified in subsection (f)(3), the owner or operator must send updated information to the Agency within 90

- 2383 days after the close of each succeeding fiscal year. This information must
 2384 consist of all three items specified in subsection (f)(3).
 2385
- 2386 6) If the owner or operator no longer meets the requirements of subsection
 2387 (f)(1), the owner or operator must send notice to the Agency of intent to
 2388 establish alternative financial assurance, as specified in this Section. The
 2389 notice must be sent by certified mail within 90 days after the end of the
 2390 fiscal year for which the year-end financial data show that the owner or
 2391 operator no longer meets the requirements the owner or operator must
 2392 provide the alternative financial assurance within 120 days after the end of
 2393 such fiscal year.
 2394
- 2395 7) Based on a reasonable belief that the owner or operator may no longer
 2396 meet the requirements of subsection (f)(1), the Agency may require
 2397 reports of financial condition at any time from the owner or operator in
 2398 addition to those specified in subsection (f)(3). If the Agency finds, on the
 2399 basis of such reports or other information, that the owner or operator no
 2400 longer meets the requirements of subsection (f)(1), the owner or operator
 2401 must provide alternative financial assurance, as specified in this Section,
 2402 within 30 days after notification of such a finding.
 2403
- 2404 8) The Agency may disallow use of this test on the basis of qualifications in
 2405 the opinion expressed by the independent certified public accountant in the
 2406 accountant's report on examination of the owner's or operator's financial
 2407 statements (see subsection (f)(3)(B)). An adverse opinion or a disclaimer
 2408 of opinion will be cause for disallowance. The Agency must evaluate
 2409 other qualifications on an individual basis. The owner or operator must
 2410 provide alternative financial assurance, as specified in this Section, within
 2411 30 days after notification of the disallowance.
 2412
- 2413 9) During the period of post-closure care, the Agency must approve a
 2414 decrease in the current post-closure cost estimate for which this test
 2415 demonstrates financial assurance if the owner or operator demonstrates to
 2416 the Agency that the amount of the cost estimate exceeds the remaining
 2417 cost of post-closure care.
 2418
- 2419 10) The owner or operator is no longer required to submit the items specified
 2420 in subsection (f)(3) when either of the following occurs:
 2421
- 2422 A) An owner or operator substitutes alternative financial assurance, as
 2423 specified in this Section; or
 2424
- 2425 B) The Agency releases the owner or operator from the requirements

of this Section in accordance with subsection (i).

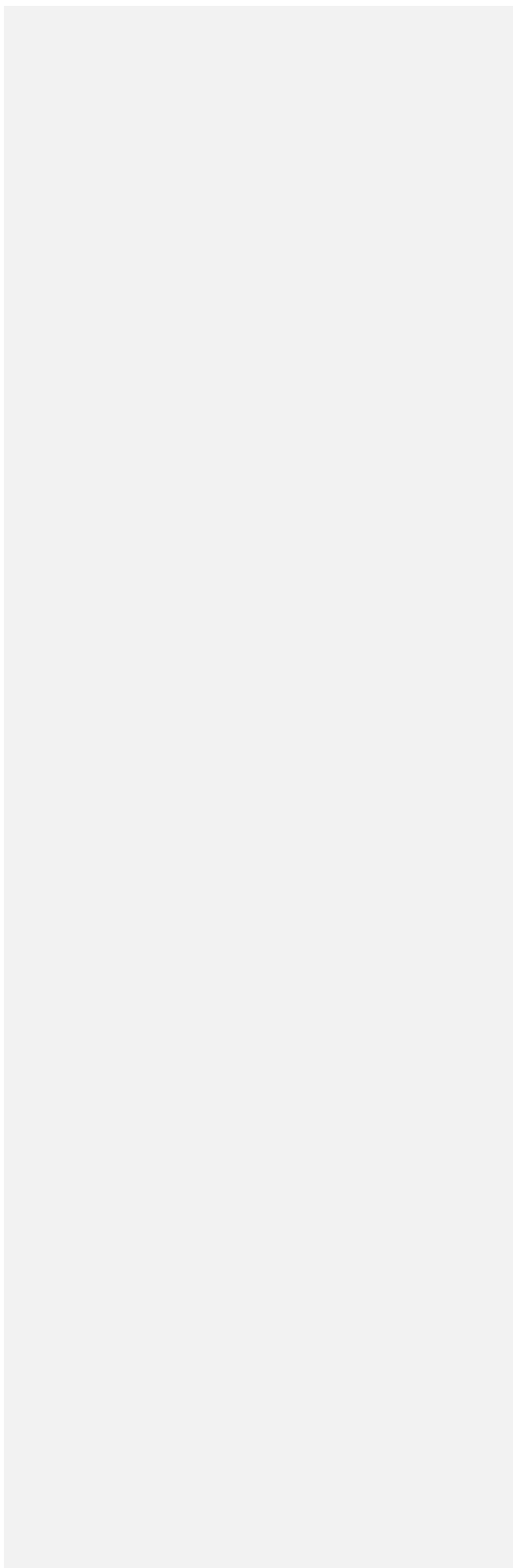
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- 11) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate guarantee". The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (f)(1) through (f)(9), and must comply with the terms of the corporate guarantee. The wording of the corporate guarantee must be that specified in Section 724.251. A certified copy of the corporate guarantee must accompany the items sent to the Agency, as specified in subsection (f)(3). One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the corporate guarantee must provide as follows:
- A) That if the owner or operator fails to perform post-closure care of a facility covered by the corporate guarantee in accordance with the post-closure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in subsection (a) in the name of the owner or operator.
 - B) That the corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.
 - C) That if the owner or operator fails to provide alternative financial assurance as specified in this Section and obtain the written approval of such alternative assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the owner or operator.

- 2469 g) Use of Multiple Financial Mechanisms. An owner or operator may satisfy the
 2470 requirements of this Section by establishing more than one financial mechanism
 2471 per facility. These mechanisms are limited to trust funds, surety bonds
 2472 guaranteeing payment into a trust fund, letters of credit and insurance. The
 2473 mechanisms must be as specified in subsections (a), (b), (d), and (e), respectively,
 2474 except that it is the combination of mechanisms, rather than the single
 2475 mechanism, that must provide financial assurance for an amount at least equal to
 2476 the current post-closure cost estimate. If an owner or operator uses a trust fund in
 2477 combination with a surety bond or a letter of credit, it may use the trust fund as
 2478 the standby trust fund for the other mechanisms. A single standby trust fund may
 2479 be established for two or more mechanisms. The Agency may use any or all of
 2480 the mechanisms to provide for post-closure care of the facility.
 2481
- 2482 h) Use of a Financial Mechanism for Multiple Facilities. An owner or operator may
 2483 use a financial assurance mechanism specified in this Section to meet the
 2484 requirements of this Section for more than one facility. Evidence of financial
 2485 assurance submitted to the Agency must include a list showing, for each facility,
 2486 the USEPA identification number, name, address, and the amount of funds for
 2487 post-closure care assured by the mechanism. The amount of funds available
 2488 through the mechanism must be no less than the sum of funds that would be
 2489 available if a separate mechanism had been established and maintained for each
 2490 facility. The amount of funds available to the Agency must be sufficient to close
 2491 all of the owner or operator's facilities. In directing funds available through the
 2492 mechanism for post-closure care of any of the facilities covered by the
 2493 mechanism, the Agency may direct only the amount of funds designated for that
 2494 facility, unless the owner or operator agrees to the use of additional funds
 2495 available under the mechanism.
 2496
- 2497 i) Release of the Owner or Operator from the Requirements of this Section. Within
 2498 60 days after receiving certifications from the owner or operator and a qualified
 2499 Professional Engineer that the post-closure care period has been completed for a
 2500 hazardous waste disposal unit in accordance with the approved plan, the Agency
 2501 must notify the owner or operator that it is no longer required to maintain
 2502 financial assurance for post-closure care of that unit, unless the Agency
 2503 determines that post-closure care has not been in accordance with the approved
 2504 post-closure plan. The Agency must provide the owner or operator a detailed
 2505 written statement of any such determination that post-closure care has not been in
 2506 accordance with the approved post-closure plan.
 2507
- 2508 j) Appeal. The following Agency actions are deemed to be permit modifications or
 2509 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 2510 702.184(e)(3)):
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- 1) An increase in or a refusal to decrease the amount of a bond, letter of credit, or insurance;
 - 2) Requiring alternative assurance upon a finding that an owner or operator or parent corporation no longer meets a financial test.

(Source: Amended at 50 Ill. Reg. _____, effective _____)



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

5
6 PART 725
7 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS
8 WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

9
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11 Section
12 725.101 Purpose, Scope, and Applicability
13 725.102 Electronic Reporting
14 725.104 Imminent Hazard Action

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16
17 SUBPART B: GENERAL FACILITY STANDARDS

18 Section
19 725.110 Applicability
20 725.111 USEPA Identification Number
21 725.112 Required Notices
22 725.113 General Waste Analysis
23 725.114 Security
24 725.115 General Inspection Requirements
25 725.116 Personnel Training
26 725.117 General Requirements for Ignitable, Reactive, or Incompatible Wastes
27 725.118 Location Standards
28 725.119 Construction Quality Assurance Program

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31 SUBPART C: PREPAREDNESS AND PREVENTION

32 Section
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38 725.135 Required Aisle Space
39 725.137 Arrangements with Local Authorities

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42 SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

43 Section
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47	725.152	Content of Contingency Plan
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50	725.155	Emergency Coordinator
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58	725.172	Manifest Discrepancies
59	725.173	Operating Record
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189	725.414	Special Requirements for Liquid Wastes
190	725.415	Special Requirements for Containers
191	725.416	Disposal of Small Containers of Hazardous Waste in Overpacked Drums (Lab Packs)
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SUBPART O: INCINERATORS

193		
194		
195		
196	Section	
197	725.440	Applicability
198	725.441	Waste Analysis
199	725.445	General Operating Requirements
200	725.447	Monitoring and Inspections
201	725.451	Closure
202	725.452	Interim Status Incinerators Burning Particular Hazardous Wastes
203		

SUBPART P: THERMAL TREATMENT

204		
205		
206	Section	
207	725.470	Other Thermal Treatment
208	725.473	General Operating Requirements
209	725.475	Waste Analysis
210	725.477	Monitoring and Inspections
211	725.481	Closure
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214		

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215		
216		
217	Section	
218	725.500	Applicability
219	725.501	General Operating Requirements
220	725.502	Waste Analysis and Trial Tests

221	725.503	Inspections
222	725.504	Closure
223	725.505	Special Requirements for Ignitable or Reactive Wastes
224	725.506	Special Requirements for Incompatible Wastes
225		
226		SUBPART R: UNDERGROUND INJECTION
227		
228	Section	
229	725.530	Applicability
230		
231		SUBPART W: DRIP PADS
232		
233	Section	
234	725.540	Applicability
235	725.541	Assessment of Existing Drip Pad Integrity
236	725.542	Design and Installation of New Drip Pads
237	725.543	Design and Operating Requirements
238	725.544	Inspections
239	725.545	Closure
240		
241		SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS
242		
243	Section	
244	725.930	Applicability
245	725.931	Definitions
246	725.932	Standards: Process Vents
247	725.933	Standards: Closed-Vent Systems and Control Devices
248	725.934	Test Methods and Procedures
249	725.935	Recordkeeping Requirements
250		
251		SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS
252		
253	Section	
254	725.950	Applicability
255	725.951	Definitions
256	725.952	Standards: Pumps in Light Liquid Service
257	725.953	Standards: Compressors
258	725.954	Standards: Pressure Relief Devices in Gas/Vapor Service
259	725.955	Standards: Sampling Connecting Systems
260	725.956	Standards: Open-Ended Valves or Lines
261	725.957	Standards: Valves in Gas/Vapor or Light Liquid Service
262	725.958	Standards: Pumps, Valves, Pressure Relief Devices, Flanges, and Other
263		Connectors
264	725.959	Standards: Delay of Repair

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265	725.960	Standards: Closed-Vent Systems and Control Devices
266	725.961	Percent Leakage Alternative for Valves
267	725.962	Skip Period Alternative for Valves
268	725.963	Test Methods and Procedures
269	725.964	Recordkeeping Requirements
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271		SUBPART CC: AIR EMISSION STANDARDS FOR TANKS,
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273		
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275	725.980	Applicability
276	725.981	Definitions
277	725.982	Schedule for Implementation of Air Emission Standards
278	725.983	Standards: General
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280	725.985	Standards: Tanks
281	725.986	Standards: Surface Impoundments
282	725.987	Standards: Containers
283	725.988	Standards: Closed-Vent Systems and Control Devices
284	725.989	Inspection and Monitoring Requirements
285	725.990	Recordkeeping Requirements
286	725.991	Alternative Tank Emission Control Requirements (Repealed)
287		
288		SUBPART DD: CONTAINMENT BUILDINGS
289		
290	Section	
291	725.1100	Applicability
292	725.1101	Design and Operating Standards
293	725.1102	Closure and Post-Closure Care
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295		SUBPART EE: HAZARDOUS WASTE MUNITIONS AND EXPLOSIVES STORAGE
296		
297	Section	
298	725.1200	Applicability
299	725.1201	Design and Operating Standards
300	725.1202	Closure and Post-Closure Care
301		
302	725.APPENDIX A	Recordkeeping Instructions
303	725.APPENDIX B	EPA Report Form and Instructions (Repealed)
304	725.APPENDIX C	USEPA Interim Primary Drinking Water Standards
305	725.APPENDIX D	Tests for Significance
306	725.APPENDIX E	Examples of Potentially Incompatible Wastes
307	725.APPENDIX F	Compounds with Henry's Law Constant Less Than 0.1 Y/X (at 25°C)
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309 AUTHORITY: Implementing Sections 7.2, 22.4, and 22.23e and authorized by Section 27 of the
 310 Environmental Protection Act [415 ILCS 5/7.2, 22.4, 22.23e, and 27].

311
 312 SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and
 313 codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.
 314 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12,
 315 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10
 316 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective
 317 August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in
 318 R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338,
 319 effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15,
 320 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at
 321 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective
 322 November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990;
 323 amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at
 324 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective
 325 October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in
 326 R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg.
 327 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22,
 328 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18
 329 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective
 330 November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in
 331 R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22
 332 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective
 333 April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28,
 334 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999;
 335 amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill.
 336 Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20,
 337 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at
 338 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective
 339 April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23,
 340 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006;
 341 amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33
 342 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890,
 343 effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October
 344 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in
 345 R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11830,
 346 effective August 9, 2016; amended in R17-14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 23725,
 347 effective November 19, 2018; amended in R19-3 at 43 Ill. Reg. 634, effective December 6, 2018;
 348 amended in R19-11 at 43 Ill. Reg. 6049, effective May 2, 2019; amended in R20-8/R20-16 at 44
 349 Ill. Reg. 15374, effective September 3, 2020; amended in R21-13, R22-13, R24-4 at 48 Ill. Reg.
 350 9911, effective June 20, 2024; amended in R24-12 at 48 Ill. Reg. 17086, effective November 7,
 351 2024; amended in R25-22 at 49 Ill. Reg. 11403, effective August 27, 2025; amended in R25-12
 352 at 50 Ill. Reg. _____, effective _____.

Commented [SKA1]: R26-4?

SUBPART B: GENERAL FACILITY STANDARDS

Section 725.112 Required Notices

- a) Receipt from a Foreign Source. The owner or operator of a facility that has arranged to receive hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, from a foreign source must submit the following required notices:
- 1) As required by 35 Ill. Adm. Code 722.184(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from USEPA and the competent authorities for the countries of transit, the owner or operator of the facility, if acting as the importer, must provide notification of the proposed transboundary movement in English to USEPA using the methods listed in 35 Ill. Adm. Code 722.184(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics; the same United Nations/USDOT identification number from the Hazardous Materials Table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111; the same USEPA hazardous waste numbers; and the same applicable OECD waste codes from the lists in the OECD Guidance Manual, incorporated by reference in 35 Ill. Adm. Code 720.111; and being sent from the same foreign exporter.
 - 2) As required by 35 Ill. Adm. Code 722.184(d)(2)(O), a copy of the movement document with all the required signatures within three working days after receiving the shipment to the foreign exporter ~~and~~ to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively. For shipments received, and on or after the electronic import-export reporting compliance date the receiving facility must close out the movement document to confirm receipt within three working days of shipment delivery using the, to EPA electronically using USEPA's Waste Import Export Tracking System (WIETS), or successor system. For shipments sent from a country with which the USEPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export. The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted

documents in the facility's account on USEPA's WIETS, if copies are readily available for viewing and production upon request by any USEPA or Agency inspector. ~~No~~ owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with USEPA's WIETS for which the owner or operator of a facility bears no responsibility.

- 3) As required by 35 Ill. Adm. Code 722.184(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, the owner or operator of the facility must inform USEPA, using the methods listed in 35 Ill. Adm. Code 722.184(b)(1) of the need to return or arrange alternate management of the shipment.
- 4) As required by 35 Ill. Adm. Code 722.184(g), the owner or operator must:
 - A) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but within thirty days after completing recovery or disposal on the waste in the shipment and within one calendar year after receiving the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste. For shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS. For shipments sent from a country with which the USEPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send confirmation of recovery or disposal data back through the electronic exchange to the foreign exporter and the country of export.
 - B) If the facility performed any of recovery operations R12, R13, or RC3 or disposal operations D13 through D15, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11 or RC1 or one of disposal operations D1 through D12, or DC1 to DC2, to the competent authority of the country of export that controls the shipment as an export of hazardous waste; on or after the electronic import-export reporting compliance date, to USEPA electronically using USEPA's WIETS, or its successor system. The recovery and disposal operations in this subsection are defined in

441 35 Ill. Adm. Code 722.181. For shipments sent from a country
442 with which the USEPA has established an electronic exchange of
443 movement document tracking data, the receiving facility may use
444 WIETS or its successor system to send confirmation of recovery or
445 disposal data back through the electronic exchange to the country
446 of export.
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- 448 b) Before transferring ownership or operation of a facility during its operating life,
449 or of a disposal facility during the post-closure care period, the owner or operator
450 must notify the new owner or operator in writing of the requirements of this Part
451 and 35 Ill. Adm. Code 702 and 703 (also see 35 Ill. Adm. Code 703.155).
452

453 BOARD NOTE: An owner's or operator's failure to notify the new owner or
454 operator of the requirements of this Part in no way relieves the new owner or
455 operator of his obligation to comply with all applicable requirements.
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457 (Source: Amended at 50 Ill. Reg. _____, effective _____)
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459 SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING
460

461 **Section 725.171 Use of Manifest System**
462

- 463 a) Receipt of Manifested Hazardous Waste
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- 465 1) If a facility receives hazardous waste accompanied by a manifest, the
466 owner, operator, or its agent must sign and date the manifest, as indicated
467 in subsection (a)(2), to certify that the hazardous waste covered by the
468 manifest was received, that the hazardous waste was received except as
469 noted in the discrepancy space of the manifest, or that the hazardous waste
470 was rejected as noted in the manifest discrepancy space.
471
 - 472 2) If a facility receives a hazardous waste shipment accompanied by a
473 manifest, the owner, operator, or its agent must do the following:
474
- 475 A) The owner, operator, or agent must sign and date, by hand, each
476 copy of the manifest;
477
 - 478 B) The owner, operator, or agent must note any discrepancies (as
479 defined in 35 Ill. Adm. Code 724.172) on each copy of the
480 manifest;
481
 - 482 C) The owner, operator, or agent must immediately give the
483 transporter at least one copy of the manifest;
484

485 D) This subsection (D) corresponds with 40 CFR 265.71(a)(2)(iv),
486 which USEPA has marked "reserved". This statement maintains
487 structural consistency with the corresponding federal
488 regulations. The owner, operator, or agent must send a copy (Page
489 3) of the manifest to the generator within 30 days after delivery;

Commented [SKA2]: (a)(2)(D)

491 E) Paper manifest submission requirements are the following:

492
493 i) This subsection (E) corresponds with 40 CFR
494 265.71(a)(2)(v)(A), which USEPA has marked "reserved".
495 This statement maintains structural consistency with the
496 corresponding federal regulations. The owner, operator, or
497 agent must send the top copy (Page 1) of any paper
498 manifest and any paper continuation sheet to the e-Manifest
499 System for purposes of data entry and processing. In lieu
500 of submitting the paper copy to the e-Manifest System
501 operator, the owner or operator may transmit to the e-
502 Manifest System operator an image file of Page 1 of the
503 manifest and any continuation sheet, or both a data string
504 file and the image file corresponding to Page 1 of the
505 manifest and any continuation sheet, within 30 days after
506 the date of delivery. Submissions of copies to the e-
507 Manifest System must be made at the mailing address or
508 electronic mail/submission address specified at the e-
509 Manifest program website's directory of services.
510 Beginning on June 30, 2021, USEPA will not accept
511 mailed paper manifests from facilities for processing in the
512 e-Manifest System; and

Commented [SKA3]: See comment above

513
514 ii) Options for Compliance on June 30, 2021. Send to the
515 USEPA e-Manifest system an image file of the top copy
516 (Page 1) of the manifest and any continuation sheet, or send
517 to the USEPA e-Manifest system both a data file and the
518 image file corresponding to Page 1 of the manifest and any
519 continuation sheet, within 30 days of the date of
520 delivery. Beginning on June 30, 2021, the requirement to
521 submit the top copy (Page 1) of the paper manifest and any
522 paper continuation sheet to the e-Manifest System for
523 purposes of data entry and processing may be met by the
524 owner or operator only by transmitting to the e-Manifest
525 System an image file of Page 1 of the manifest and any
526 continuation sheet, or by transmitting to the e-Manifest
527 System both a data file and the image file corresponding to
528 Page 1 of the manifest and any continuation sheet, within

~~30 days after the date of delivery. Submissions of copies to the e-Manifest System must be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System; and~~

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- F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.
 - 3) The owner or operator of a facility that receives hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722 from a foreign source must:
 - A) Additionally, list the relevant waste stream consent number from consent documentation supplied by USEPA to the facility for each waste listed on the hazardous waste manifest in the International Shipments block on the Continuation Sheet (USEPA Form 8700-22A), matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use additional Continuation Sheets (USEPA Form 8700-22A); and
 - B) Send a copy of the manifest to ~~USEPA using the addresses listed in 35 Ill. Adm. Code 722.182(e) within 30 days of delivery until the facility can submit such a copy to~~ the USEPA e-Manifest system per subsection (a)(2)(E).
 - b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:
 - 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

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BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

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- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) Within 30 days of delivery, send a copy (Page 1) of the signed and dated manifest to the USEPA e-Manifest system. The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: 35 Ill. Adm. Code 722.123(e) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).
 - 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722. The provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 apply to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.115, 722.116, and 722.117 only apply to an owner or operator that ships hazardous waste that it generated at that facility or operating as an LQG consolidating hazardous waste from VSQGs under 35 Ill. Adm. Code 722.117(f).
- d) As required by 40 CFR 262.84(d)(2)(xv)~~40 CFR 262.84(d)(2)(O)~~, within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the foreign exporter and to the competent authorities of the countries of export and transit that control the shipment as an export or transit of hazardous waste. For shipments received on ~~On~~ or after the electronic import-export reporting compliance date, the receiving facility must close out the movement document to confirm receipt within three working days of shipment delivery using USEPA's Waste Import Tracking System (WIETS), or its successor system. For shipments sent from a country with which USEPA has established an electronic exchange of movement document tracking data, the receiving facility may use WIETS or its successor system to send movement document confirmation data back through the electronic exchange to the foreign exporter and the country of export to USEPA electronically using USEPA's WIETS. The original copy of the tracking document must be maintained at the facility for at least three years from the date

- 618 of signature. The owner or operator of a facility may satisfy this recordkeeping
 619 requirement by retaining electronically submitted documents in the facility's
 620 account on USEPA's WIETS, provided that copies are readily available for
 621 viewing and production if requested by any USEPA or authorized state inspector.
 622 No owner or operator of a facility may be held liable for the inability to produce
 623 the documents for inspection under this section if the owner or operator of a
 624 facility can demonstrate that the inability to produce the document is due
 625 exclusively to technical difficulty with USEPA's WIETS, for which the owner or
 626 operator of a facility bears no responsibility.
 627
- 628 e) A facility must determine whether the consignment state for a shipment regulates
 629 any additional wastes (beyond those regulated federally) as hazardous wastes
 630 under its state hazardous waste program. A facility must also determine whether
 631 the consignment state or generator state requires the facility to submit any copies
 632 of the manifest to that state.
 633
- 634 f) Legal Equivalence to Paper Manifests. E-Manifests that are obtained, completed,
 635 transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in
 636 accordance with this Section in lieu of the paper manifest form are the legal
 637 equivalent of paper manifest forms bearing handwritten signatures, and satisfy for
 638 all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain,
 639 complete, sign, provide, use, or retain a manifest.
 640
- 641 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or
 642 operator of a facility to sign a manifest or manifest certification by hand,
 643 or to obtain a handwritten signature, is satisfied by signing with or
 644 obtaining a valid and enforceable electronic signature within the meaning
 645 of 35 Ill. Adm. Code 722.125.
 646
 - 647 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide,
 648 send, forward, or to return to another person a copy of the manifest is
 649 satisfied when a copy of an e-Manifest is transmitted to the other person.
 650
 - 651 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to
 652 accompany a hazardous waste shipment is satisfied when a copy of an e-
 653 Manifest is accessible during transportation and forwarded to the person or
 654 persons who are scheduled to receive delivery of the hazardous waste
 655 shipment.
 656
 - 657 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or
 658 operator to keep or retain a copy of each manifest is satisfied by the
 659 retention of the facility's e-Manifest copies in its account on the e-
 660 Manifest System, provided that such copies are readily available for
 661 viewing and production if requested by any USEPA or Agency inspector.

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- 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
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- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
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- h) Special Procedures Applicable to Replacement Manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
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- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;
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- 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
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- 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
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- 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
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- i) Special Procedures Applicable to Electronic Signature Methods Undergoing Tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on

this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.

j) Imposition of User Fee for e-Manifest Use

- 1) As prescribed in 40 CFR 265.1311, incorporated by reference in 35 Ill. Adm. Code 720.111, and determined in 40 CFR 265.1312, incorporated by reference in 35 Ill. Adm. Code 720.111, an owner or operator that is a user of the e-Manifest System must be assessed a user fee by USEPA for the submission and processing of each e-Manifest and paper manifest. USEPA has stated that it would update the schedule of user fees and publish them to the user community, as provided in 40 CFR 265.1313, incorporated by reference in 35 Ill. Adm. Code 720.111.
- 2) An owner or operator subject to user fees under this Section must make user fee payments in accordance with the requirements of 40 CFR 265.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject to the informal fee dispute resolution process of 40 CFR 265.1316, incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the sanctions for delinquent payments under 40 CFR 265.1315, incorporated by reference in 35 Ill. Adm. Code 720.111.

k) E-Manifest Signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.

l) ~~Post-Receipt Manifest Data Corrections. After a facility has certified that the manifest is complete, by signing it at the time of submission to the USEPA e-Manifest system, to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (i.e., any waste handler shown on the manifest or the Agency) named on the manifest. If corrections are requested by the Agency for portions of the manifest that a designated facility is required to complete, the facility must make the data correction within 30 days from the date of request, may submit any post-receipt data corrections at any time.~~

- 1) An interested person must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web-based service provided in the e-Manifest System for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.
- 2) Each correction submission must include the following information:

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- A) The Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;
 - B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.
- 3) Each correction submission must include a statement that the person submitting the corrections certifies that, to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:
- A) The person must execute the certification statement with a valid electronic signature; and
 - B) The person may submit a batch upload of data corrections under one certification statement.
- 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.
- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

781 (Source: Amended at 50 Ill. Reg. _____, effective _____)

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783 **Section 725.172 Manifest Discrepancies**

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- a) "Manifest discrepancies" are defined as any one of the following:
 - 1) Significant differences (as defined by subsection (b)) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;
 - 2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

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- 3) Container residues, which are residues that exceed the quantity limits for empty containers in 35 Ill. Adm. Code 721.107(b) and 726.607.
 - b) "Significant differences in quantity" are defined as the appropriate of the following: for bulk waste, variations greater than 10 percent in weight; or, for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. "Significant differences in type" are defined as obvious differences that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or as toxic constituents not reported on the manifest or shipping paper.
 - c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within ~~2045~~ days after receiving the waste, the owner or operator must: ~~immediately submit to the Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.~~
 - 1) Immediately submit to the USEPA and Agency a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.
 - 2) Beginning on December 1, 2025, immediately submit a Discrepancy Report to the USEPA e-Manifest system describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue. Beginning on December 1, 2025, the USEPA will no longer accept mailed paper Discrepancy Reports from facilities.
 - d) Rejection of Hazardous Waste
 - 1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for empty containers in 35 Ill. Adm. Code 721.107(b), the facility owner or operator must consult with the generator before sending the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility owner or operator may return the rejected waste or residue to the generator. The facility owner or operator must send the waste to the alternative facility or to the generator within 60 days after the rejection or the container residue identification.
 - 2) While the facility owner or operator is making arrangements for sending rejected wastes or residues to another facility under this Section, it must ensure that either the delivering transporter retains custody of the waste, or

837 the facility owner or operator must provide for secure, temporary custody
838 of the waste, pending delivery of the waste to the first transporter
839 designated on the manifest prepared under subsection (e) or (f).
840

- 841 e) Except as provided in subsection (e)(7), for full or partial load rejections and
842 residues that are to be sent off-site to an alternate facility, the facility owner or
843 operator must prepare a new manifest in compliance with 35 Ill. Adm. Code
844 722.120(a) and the instructions in subsections (e)(1) through (e)(6):
845
- 846 1) The facility owner or operator must write the generator's USEPA
847 identification number in Item 1 of the new manifest. The facility owner or
848 operator must write the generator's name and mailing address in Item 5 of
849 the new manifest. If the mailing address is different from the generator's
850 site address, then the facility owner or operator must write the generator's
851 site address in the designated space in Item 5.
852
 - 853 2) The facility owner or operator must write the name of the alternate
854 designated facility and the facility's USEPA identification number in the
855 designated facility block (Item 8) of the new manifest.
856
 - 857 3) The facility owner or operator must copy the manifest tracking number
858 found in Item 4 of the old manifest to the Special Handling and Additional
859 Information Block of the new manifest, and indicate that the shipment is a
860 residue or rejected waste from the previous shipment.
861
 - 862 4) The facility owner or operator must copy the manifest tracking number
863 found in Item 4 of the new manifest to the manifest reference number line
864 in the Discrepancy Block of the old manifest (Item 18a).
865
 - 866 5) The facility owner or operator must write the USDOT description for the
867 rejected load or the residue in Item 9 (USDOT Description) of the new
868 manifest and write the container types, quantity, and volumes of waste.
869
 - 870 6) The facility owner or operator must sign the Generator's/Offeror's
871 Certification to certify, as the offeror of the shipment, that the waste has
872 been properly packaged, marked and labeled and is in proper condition for
873 transportation, and mail a signed copy of the manifest to the generator
874 identified in Item 5 of the new manifest.
875
 - 876 7) For full load rejections that are made while the transporter remains present
877 at the facility, the facility owner or operator may send the rejected
878 shipment to the alternate facility by completing Item 18b of the original
879 manifest and supplying the information on the next destination facility in
880 the Alternate Facility space. The facility owner or operator must retain a

881 copy of this manifest for its records, and then give the remaining copies of
882 the manifest to the transporter to accompany the shipment. If the original
883 manifest is not used, then the facility owner or operator must use a new
884 manifest and comply with subsections (e)(1) through (e)(6).
885

886 f) Except as provided in subsection (f)(7), for rejected wastes and residues that must
887 be sent back to the generator, the facility owner or operator must prepare a new
888 manifest in compliance with 35 Ill. Adm. Code 722.120(a) and the instructions in
889 subsections (f)(1) through (f)(6) and (f)(8):
890

- 891 1) The facility owner or operator must write the facility's USEPA
892 identification number in Item 1 of the new manifest. The facility owner or
893 operator must write the facility's name and mailing address in Item 5 of
894 the new manifest. If the mailing address is different from the facility's site
895 address, then the facility owner or operator must write the facility's site
896 address in the designated space for Item 5 of the new manifest.
897
- 898 2) The facility owner or operator must write the name of the initial generator
899 and the generator's USEPA identification number in the designated facility
900 block (Item 8) of the new manifest.
901
- 902 3) The facility owner or operator must copy the manifest tracking number
903 found in Item 4 of the old manifest to the Special Handling and Additional
904 Information Block of the new manifest, and indicate that the shipment is a
905 residue or rejected waste from the previous shipment.
906
- 907 4) The facility owner or operator must copy the manifest tracking number
908 found in Item 4 of the new manifest to the manifest reference number line
909 in the Discrepancy Block of the old manifest (Item 18a).
910
- 911 5) The facility owner or operator must write the USDOT description for the
912 rejected load or the residue in Item 9 (USDOT Description) of the new
913 manifest and write the container types, quantity, and volumes of waste.
914
- 915 6) The facility owner or operator must sign the Generator's/Offeror's
916 Certification to certify, as offeror of the shipment, that the waste has been
917 properly packaged, marked and labeled and is in proper condition for
918 transportation.
919
- 920 7) For full load rejections that are made while the transporter remains at the
921 facility, the facility owner or operator may return the shipment to the
922 generator with the original manifest by completing Item 18b of the
923 manifest and supplying the generator's information in the Alternate
924 Facility space. The facility owner or operator must retain a copy for its

925 records and then give the remaining copies of the manifest to the
926 transporter to accompany the shipment. If the original manifest is not
927 used, then the facility owner or operator must use a new manifest and
928 comply with subsections (f)(1) through (f)(6) and (f)(8).
929

930 8) For full or partial load rejections and container residues contained in non-
931 empty containers that are returned to the generator, the facility owner or
932 operator must also comply with the exception reporting requirements in
933 Section 722.142(a).
934

935 g) If a facility owner or operator rejects a waste or identifies a container residue that
936 exceeds the quantity limits for empty containers in 35 Ill. Adm. Code 721.107(b)
937 after it has signed, dated, and returned a copy of the manifest to the delivering
938 transporter or to the generator, the facility owner or operator must amend its copy
939 of the manifest to indicate the rejected wastes or residues in the discrepancy space
940 of the amended manifest. The facility owner or operator must also copy the
941 manifest tracking number from Item 4 of the new manifest to the Discrepancy
942 space of the amended manifest; and must re-sign and date the manifest to certify
943 to the information as amended. The facility owner or operator must retain the
944 amended manifest for at least three years from the date of amendment, and must,
945 within 30 days, send a copy of the amended manifest to the transporter and
946 ~~generator~~ that received copies before being amended. [Facilities are not required
947 to send the amended manifest to any transporter who is registered in the USEPA's
948 e-Manifest system. Registered transporters may obtain the signed and dated copy
949 of a completed manifest from the USEPA e-Manifest system in lieu of receiving
950 the manifest through U.S. postal mail.](#)
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952 (Source: Amended at 50 Ill. Reg. _____, effective _____)
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954 **Section 725.176 Unmanifested Waste Report** 955

956 a) If a facility accepts for treatment, storage, or disposal any hazardous waste from
957 an off-site source without an accompanying manifest, or without an
958 accompanying shipping paper, as described by 35 Ill. Adm. Code 723.120(e), and
959 if the waste is not excluded from the manifest requirement by 35 Ill. Adm. Code
960 260 through 265, then the owner or operator must prepare and submit a letter to
961 the Agency within 15 days after receiving the waste. The unmanifested waste
962 report must contain the following information:
963

- 964 1) The USEPA identification number, name, and address of the facility;
- 965 2) The date the facility received the waste;
- 966
- 967

- 968 3) The USEPA identification number, name, and address of the generator and
969 the transporter, if available;
970
971 4) A description and the quantity of each unmanifested hazardous waste the
972 facility received;
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974 5) The method of treatment, storage, or disposal for each hazardous waste;
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976 6) The certification signed by the owner or operator of the facility or its
977 authorized representative; and
978
979 7) A brief explanation of why the waste was unmanifested, if known.
980
981 b) Beginning on December 1, 2025, if a facility accepts for treatment, storage, or
982 disposal any hazardous waste from an off-site source without an accompanying
983 manifest, or without an accompanying shipping paper as described by 40 CFR
984 263.20(e), and if the waste is not excluded from the manifest requirements in 40
985 CFR 263.20, then the owner or operator must prepare an electronic Unmanifested
986 Waste Report in the USEPA e-Manifest system for submission to the USEPA
987 within 15 days after receiving the waste. The Unmanifested Waste Report must
988 contain the following information:~~This subsection (b) corresponds with 40 CFR~~
989 ~~265.76(b), which USEPA has marked "reserved". This statement maintains~~
990 ~~structural consistency with the corresponding federal regulations.~~
991
992 1) The EPA identification number, name and address of the facility;
993
994 2) The date the facility received the waste;
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996 3) The EPA identification number, name and address of the generator and the
997 transporter, if available;
998
999 4) A description and the quantity of each unmanifested hazardous waste the
1000 facility received;
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1002 5) The method of treatment, storage, or disposal for each hazardous waste;
1003
1004 6) The certification signed by the owner or operator of the facility or his
1005 authorized representative; and
1006
1007 7) A brief explanation of why the waste was unmanifested, if known.
1008

1009 BOARD NOTE: Small quantities of hazardous waste are excluded from regulation under
1010 this Part and do not require a manifest. Where a facility received unmanifested
1011 hazardous waste, USEPA has suggested that the owner or operator obtain from each

1012 generator a certification that the waste qualifies for exclusion. Otherwise, USEPA has
1013 suggested that the owner or operator file an unmanifested waste report for the hazardous
1014 waste movement.

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1016 (Source: Amended at 50 Ill. Reg. _____, effective _____)
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1018 SUBPART H: FINANCIAL REQUIREMENTS
1019

1020 **Section 725.243 Financial Assurance for Closure**
1021

1022 An owner or operator of each facility must establish financial assurance for closure of the
1023 facility. The owner or operator must choose from the options specified in subsections (a)
1024 through (e).

1025
1026 a) Closure Trust Fund
1027

1028 1) An owner or operator may satisfy the requirements of this Section by
1029 establishing a closure trust fund that conforms to the requirements of this
1030 subsection and submitting an original, signed duplicate of the trust
1031 agreement to the Agency. The trustee must be an entity that has the
1032 authority to act as a trustee and whose trust operations are regulated and
1033 examined by a federal or State agency.
1034

1035 2) The wording of the trust agreement must be as specified in 35 Ill. Adm.
1036 Code 724.251, and the trust agreement must be accompanied by a formal
1037 certification of acknowledgment, as specified in 35 Ill. Adm. Code
1038 724.251. Schedule A of the trust agreement must be updated within 60
1039 days after a change in the amount of the current closure cost estimate
1040 covered by the agreement.
1041

1042 3) Payments into the trust fund must be made annually by the owner or
1043 operator over the remaining operating life of the facility as estimated in
1044 the closure plan; this period is hereafter referred to as the "pay-in period".
1045 The payments into the closure trust fund must be made as follows:
1046

1047 A) The first payment must be at least equal to the current closure cost
1048 estimate, except as provided in subsection (f), divided by the
1049 number of years in the pay-in period.
1050

1051 B) Subsequent payments must be made no later than 30 days after
1052 each anniversary date of the first payment. The amount of each
1053 subsequent payment must be determined by this formula:
1054

$$\text{Next Payment} = \frac{(\text{CE}-\text{CV})(\text{CE}-\text{CV})}{\text{Y}}$$

Where:

- CE = the current closure cost estimate
- CV = the current value of the trust fund
- Y = the number of years remaining in the pay-in period

- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3).
- 5) If the owner or operator establishes a closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3).
- 6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance, as specified in this Section, to cover the difference.
- 7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate.
- 8) If an owner or operator substitutes other financial assurance, as specified in this Section, for all or part of the trust fund, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current closure cost estimate covered by the trust fund.
- 9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8), the Agency must instruct the trustee to release to the owner or operator such funds as

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- 1093 the Agency specifies in writing.
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1096 10) After beginning partial or final closure, an owner or operator or another
1097 person authorized to conduct partial or final closure may request
1098 reimbursement for closure expenditures by submitting itemized bills to the
1099 Agency. The owner or operator may request reimbursement for partial
1100 closure only if sufficient funds are remaining in the trust fund to cover the
1101 maximum costs of closing the facility over its remaining operating life.
1102 Within 60 days after receiving bills for partial or final closure activities,
1103 the Agency must instruct the trustee to make reimbursement in those
1104 amounts as the Agency specifies in writing if the Agency determines that
1105 the partial or final closure expenditures are in accordance with the
1106 approved closure plan, or otherwise justified. If the Agency determines
1107 that the maximum cost of closure over the remaining life of the facility
1108 will be significantly greater than the value of the trust fund, it must
1109 withhold reimbursement of such amounts as it deems prudent until it
1110 determines, in accordance with subsection (h), that the owner or operator
1111 is no longer required to maintain financial assurance for final closure of
1112 the facility. If the Agency does not instruct the trustee to make such
1113 reimbursements, the Agency must provide the owner or operator a detailed
1114 written statement of reasons.
1115
1116 11) The Agency must agree to termination of the trust when either of the
1117 following occurs:
1118 A) An owner or operator substitutes alternate financial assurance, as
1119 specified in this Section; or
1120 B) The Agency releases the owner or operator from the requirements
1121 of this Section in accordance with subsection (h).
1122
1123 b) Surety Bond Guaranteeing Payment into a Closure Trust Fund
1124
1125 1) An owner or operator may satisfy the requirements of this Section by
1126 obtaining a surety bond that conforms to the requirements of this
1127 subsection (b) and submitting the bond to the Agency. The surety
1128 company issuing the bond must, at a minimum, be among those listed as
1129 acceptable sureties on federal bonds in Circular 570 of the U.S.
1130 Department of the Treasury.
1131
1132 BOARD NOTE: The U.S. Department of the Treasury updates Circular
1133 570, "Companies Holding Certificates of Authority as Acceptable Sureties
1134 on Federal Bonds and as Acceptable Reinsuring Companies", on an annual
1135 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet
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from the following website: <https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570>
<http://www.fms.treas.gov/c570/>.

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- 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code 724.251.
 - 3) The owner or operator that uses a surety bond to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. This standby trust fund must meet the requirements specified in subsection (a), except as follows:
 - A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
 - B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
 - i) Payments into the trust fund, as specified in subsection (a);
 - ii) Updating of Schedule A of the trust agreement (see 35 Ill. Adm. Code 724.251(a)) to show current closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
 - 4) The bond must guarantee that the owner or operator will:
 - A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility;
 - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin final closure is issued by the Board or a court of competent jurisdiction; or
 - C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.

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- 5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
 - 6) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate, except as provided in subsection (f).
 - 7) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Agency.
 - 8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.
 - 9) The owner or operator may cancel the bond if the Agency has given prior written consent based on its receipt of evidence of alternate financial assurance, as specified in this Section.
- c) Closure Letter of Credit
- 1) An owner or operator may satisfy the requirements of this Section by obtaining an irrevocable standby letter of credit that conforms to the requirements of this subsection (c) and submitting the letter to the Agency. The issuing institution must be an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or State agency.
 - 2) The wording of the letter of credit must be as specified in 35 Ill. Adm. Code 724.251.
 - 3) An owner or operator that uses a letter of credit to satisfy the requirements of this Section must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Agency must be deposited by the issuing institution directly into the standby trust

- 1225 fund in accordance with instructions from the Agency. This standby trust
1226 fund must meet the requirements of the trust fund specified in subsection
1227 (a), except as follows:
1228
- 1229 A) An original, signed duplicate of the trust agreement must be
1230 submitted to the Agency with the letter of credit; and
1231
 - 1232 B) Unless the standby trust fund is funded pursuant to the
1233 requirements of this Section, the following are not required by
1234 these regulations:
 - 1235 i) Payments into the trust fund, as specified in subsection (a);
 - 1236 ii) Updating of Schedule A of the trust agreement (as specified
1237 in 35 Ill. Adm. Code 724.251) to show current closure cost
1238 estimates;
 - 1239 iii) Annual valuations, as required by the trust agreement; and
 - 1240 iv) Notices of nonpayment as required by the trust agreement.
- 1241
- 1242 4) The letter of credit must be accompanied by a letter from the owner or
1243 operator referring to the letter of credit by number, issuing institution, and
1244 date and providing the following information: the USEPA identification
1245 number, name, and address of the facility, and the amount of funds
1246 assured for closure of the facility by the letter of credit.
1247
 - 1248 5) The letter of credit must be irrevocable and issued for a period of at least
1249 one year. The letter of credit must provide that the expiration date will be
1250 automatically extended for a period of at least one year unless, at least 120
1251 days before the current expiration date, the issuing institution notifies both
1252 the owner or operator and the Agency by certified mail of a decision not to
1253 extend the expiration date. Under the terms of the letter of credit, the 120
1254 days will begin on the date when both the owner or operator and the
1255 Agency have received the notice, as evidenced by the return receipts.
1256
 - 1257 6) The letter of credit must be issued in an amount at least equal to the
1258 current closure cost estimate, except as provided in subsection (f).
1259
 - 1260 7) Whenever the current closure cost estimate increases to an amount greater
1261 than the amount of the credit, the owner or operator, within 60 days after
1262 the increase, must either cause the amount of the credit to be increased so
1263 that it at least equals the current closure cost estimate and submit evidence
1264 of such increase to the Agency, or obtain other financial assurance, as
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- 1269 specified in this Section, to cover the increase. Whenever the current
 1270 closure cost estimate decreases, the amount of the credit may be reduced
 1271 to the amount of the current closure cost estimate following written
 1272 approval by the Agency.
 1273
- 1274 8) Following a final judicial determination or Board order finding that the
 1275 owner or operator has failed to perform final closure in accordance with
 1276 the approved closure plan when required to do so, the Agency may draw
 1277 on the letter of credit.
 1278
- 1279 9) If the owner or operator does not establish alternate financial assurance, as
 1280 specified in this Section, and obtain written approval of such alternate
 1281 assurance from the Agency within 90 days after receipt by both the owner
 1282 or operator and the Agency of a notice from issuing institution that it has
 1283 decided not to extend the letter of credit beyond the current expiration
 1284 date, the Agency must draw on the letter of credit. The Agency may delay
 1285 the drawing if the issuing institution grants an extension of the term of the
 1286 credit. During the last 30 days of any such extension the Agency must
 1287 draw on the letter of credit if the owner or operator has failed to provide
 1288 alternate financial assurance, as specified in this Section, and obtain
 1289 written approval of such assurance from the Agency.
 1290
- 1291 10) The Agency must return the letter of credit to the issuing institution for
 1292 termination when one of the following occurs:
 1293
- 1294 A) An owner or operator substitutes alternate financial assurance, as
 1295 specified in this Section; or
 1296
- 1297 B) The Agency releases the owner or operator from the requirements
 1298 of this Section in accordance with subsection (h).
 1299
- 1300 d) Closure Insurance
- 1301
- 1302 1) An owner or operator may satisfy the requirements of this Section by
 1303 obtaining closure insurance that conforms to the requirements of this
 1304 subsection and submitting a certificate of such insurance to the Agency.
 1305 At a minimum, the insurer must be licensed to transact the business of
 1306 insurance, or eligible to provide insurance as an excess or surplus lines
 1307 insurer, in one or more States.
 1308
- 1309 2) The wording of the certificate of insurance must be as specified in 35 Ill.
 1310 Adm. Code 724.251.
 1311
- 1312 3) The closure insurance policy must be issued for a face amount at least

- 1313 equal to the current closure cost estimate, except as provided in subsection
 1314 (f). The term "face amount" means the total amount the insurer is
 1315 obligated to pay under the policy. Actual payments by the insurer will not
 1316 change the face amount, although the insurer's future liability will be
 1317 lowered by the amount of the payments.
 1318
- 1319 4) The closure insurance policy must guarantee that funds will be available to
 1320 close the facility whenever final closure occurs. The policy must also
 1321 guarantee that, once final closure begins, the insurer will be responsible
 1322 for paying out funds, up to an amount equal to the face amount of the
 1323 policy, upon the direction of the Agency to such party or parties as the
 1324 Agency specifies.
 1325
- 1326 5) After beginning partial or final closure, an owner or operator or any other
 1327 person authorized to conduct closure may request reimbursement for
 1328 closure expenditures by submitting itemized bills to the Agency. The
 1329 owner or operator may request reimbursement for partial closure only if
 1330 the remaining value of the policy is sufficient to cover the maximum costs
 1331 of closing the facility over its remaining operating life. Within 60 days
 1332 after receiving bills for closure activities, the Agency must instruct the
 1333 insurer to make reimbursement in such amounts as the Agency specifies in
 1334 writing if the Agency determines that the partial or final closure
 1335 expenditures are in accordance with the approved closure plan or
 1336 otherwise justified. If the Agency determines that the maximum cost of
 1337 closure over the remaining life of the facility will be significantly greater
 1338 than the face amount of the policy, it must withhold reimbursement of
 1339 such amounts as it deems prudent until it determines, in accordance with
 1340 subsection (h), that the owner or operator is no longer required to maintain
 1341 financial assurance for final closure of the particular facility. If the
 1342 Agency does not instruct the insurer to make such reimbursements, the
 1343 Agency must provide the owner or operator with a detailed written
 1344 statement of reasons.
 1345
- 1346 6) The owner or operator must maintain the policy in full force and effect
 1347 until the Agency consents to termination of the policy by the owner or
 1348 operator as specified in subsection (d)(10). Failure to pay the premium,
 1349 without substitution of alternate financial assurance as specified in this
 1350 Section, will constitute a significant violation of these regulations,
 1351 warranting such remedy as the Board may impose pursuant to the
 1352 Environmental Protection Act. Such violation will be deemed to begin
 1353 upon receipt by the Agency of a notice of future cancellation, termination,
 1354 or failure to renew due to nonpayment of the premium, rather than upon
 1355 the date of expiration.
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- 7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
- 8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that, on or before the date of expiration, one of the following occurs:
- A) The Agency deems the facility abandoned;
 - B) Interim status is terminated or revoked;
 - C) Closure is ordered by the Board or a court of competent jurisdiction;
 - D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or
 - E) The premium due is paid.
- 9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance as specified in this Section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Agency.
- 10) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:

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- A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h).
- e) Financial Test and Corporate Guarantee for Closure
- 1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test as specified in this subsection. To pass this test the owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B):
 - A) The owner or operator must have all of the following:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
 - B) The owner or operator must have all of the following:
 - i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and

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- iv) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.
 - 2) The phrase "current closure and post-closure cost estimates", as used in subsection (e)(1), refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The phrase "current plugging and abandonment cost estimates", as used in subsection (e)(1), refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).
 - 3) To demonstrate that the owner or operator meets this test, the owner or operator must submit each of the following items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251;
 - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
 - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating the following:
 - i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, that no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.
 - 4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.

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- 5) After the initial submission of items specified in subsection (e)(3), the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e)(3).
 - 6) If the owner or operator no longer meets the requirements of subsection (e)(1), the owner or operator must send notice to the Agency of intent to establish alternate financial assurance as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.
 - 7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (e)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e)(3). If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (e)(1), the owner or operator must provide alternate financial assurance as specified in this Section within 30 days after notification of such a finding.
 - 8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (e)(3)(B)). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this Section within 30 days after notification of the disallowance.
 - 9) The owner or operator is no longer required to submit the items specified in subsection (e)(3) when either of the following occurs:
 - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h).
 - 10) An owner or operator may meet the requirements of this Section by obtaining a written guarantee, hereafter referred to as "corporate

1533 guarantee". The guarantor must be the direct or higher-tier parent
 1534 corporation of the owner or operator, a firm whose parent corporation is
 1535 also the parent corporation of the owner or operator, or a firm with a
 1536 "substantial business relationship" with the owner or operator. The
 1537 guarantor must meet the requirements for owners or operators in
 1538 subsections (e)(1) through (e)(8), and must comply with the terms of the
 1539 corporate guarantee. The wording of the corporate guarantee must be
 1540 identical to the wording specified in 35 Ill. Adm. Code 724.251. The
 1541 corporate guarantee must accompany the items sent to the Agency as
 1542 specified in subsection (e)(3). One of these items must be the letter from
 1543 the guarantor's chief financial officer. If the guarantor's parent corporation
 1544 is also the parent corporation of the owner or operator, the letter must
 1545 describe the value received in consideration of the guarantee. If the
 1546 guarantor is a firm with a "substantial business relationship" with the
 1547 owner or operator, this letter must describe this substantial business
 1548 relationship" and the value received in consideration of the guarantee. The
 1549 terms of the corporate guarantee must provide the following:
 1550
 1551 A) That, if the owner or operator fails to perform final closure of a
 1552 facility covered by the corporate guarantee in accordance with the
 1553 closure plan and other interim status requirements whenever
 1554 required to do so, the guarantor will do so or establish a trust fund
 1555 as specified in subsection (a), in the name of the owner or operator.
 1556
 1557 B) That the corporate guarantee will remain in force unless the
 1558 guarantor sends notice of cancellation by certified mail to the
 1559 owner or operator and to the Agency. Cancellation may not occur,
 1560 however, during the 120 days beginning on the date of receipt of
 1561 the notice of cancellation by both the owner or operator and the
 1562 Agency, as evidenced by the return receipts.
 1563
 1564 C) That, if the owner or operator fails to provide alternate financial
 1565 assurance as specified in this Section and obtain the written
 1566 approval of such alternate assurance from the Agency within 90
 1567 days after receipt by both the owner or operator and the Agency of
 1568 a notice of cancellation of the corporate guarantee from the
 1569 guarantor, the guarantor will provide such alternate financial
 1570 assurance in the name of the owner or operator.
 1571
 1572 f) Use of Multiple Financial Mechanisms. An owner or operator may satisfy the
 1573 requirements of this Section by establishing more than one financial mechanism
 1574 per facility. These mechanisms are limited to trust funds, surety bonds, letters of
 1575 credit, and insurance. The mechanisms must be as specified in subsections (a)
 1576 through (d), respectively, except that it is the combination of mechanisms, rather

1577 than the single mechanism, that must provide financial assurance for an amount at
 1578 least equal to the current closure cost estimate. If an owner or operator uses a
 1579 trust fund in combination with a surety bond or a letter of credit, the owner or
 1580 operator may use the trust fund as the standby trust fund for the other
 1581 mechanisms. A single standby trust fund may be established for two or more
 1582 mechanisms. The Agency may use any or all of the mechanisms to provide for
 1583 closure of the facility.
 1584

1585 g) Use of a Financial Mechanism for Multiple Facilities. An owner or operator may
 1586 use a financial assurance mechanism specified in this Section to meet the
 1587 requirements of this Section for more than one facility. Evidence of financial
 1588 assurance submitted to the Agency must include a list showing, for each facility,
 1589 the USEPA identification number, name, address, and the amount of funds for
 1590 closure assured by the mechanism. The amount of funds available through the
 1591 mechanism must be no less than the sum of funds that would be available if a
 1592 separate mechanism had been established and maintained for each facility. The
 1593 amount of funds available to the Agency must be sufficient to close all of the
 1594 owner or operator's facilities. In directing funds available through the mechanism
 1595 for closure of any of the facilities covered by the mechanism, the Agency may
 1596 direct only the amount of funds designated for that facility, unless the owner or
 1597 operator agrees to the use of additional funds available under the mechanism.
 1598

1599 h) Release of the Owner or Operator from the Requirements of This Section. Within
 1600 60 days after receiving certifications from the owner or operator and a qualified
 1601 Professional Engineer that final closure has been completed in accordance with
 1602 the approved closure plan, the Agency must notify the owner or operator in
 1603 writing that the owner or operator is no longer required by this Section to
 1604 maintain financial assurance for closure of the facility, unless the Agency
 1605 determines that closure has not been in accordance with the approved closure
 1606 plan. The Agency must provide the owner or operator a detailed written
 1607 statement of any such determination that closure has not been in accordance with
 1608 the approved closure plan.
 1609

1610 i) Appeal. The following Agency actions are deemed to be permit modifications or
 1611 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 1612 702.184(e)(3)):

- 1614 1) An increase in, or a refusal to decrease the amount of, a bond, letter of
 1615 credit, or insurance; or
- 1616 2) Requiring alternate assurance upon a finding that an owner or operator or
 1617 parent corporation no longer meets a financial test.
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 1620 (Source: Amended at 50 Ill. Reg. _____, effective _____)

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Section 725.245 Financial Assurance for Post-Closure Monitoring and Maintenance

An owner or operator of a facility with a hazardous waste disposal unit must establish financial assurance for post-closure care of the disposal units. The owner or operator must choose from the following options:

- a) Post-Closure Trust Fund
 - 1) An owner or operator may satisfy the requirements of this Section by establishing a post-closure trust fund that conforms to the requirements of this subsection and submitting an original, signed duplicate of the trust agreement to the Agency. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or State agency.
 - 2) The wording of the trust agreement must be as specified in 35 Ill. Adm. Code 724.251 and the trust agreement must be accompanied by a formal certification of acknowledgment (as specified in 35 Ill. Adm. Code 724.251). Schedule A of the trust agreement must be updated within 60 days after a change in the amount of the current post-closure cost estimate covered by the agreement.
 - 3) Payments into the trust fund must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan; this period is hereafter referred to as the "pay-in period". The payments into the post-closure trust fund must be made as follows:
 - A) The first payment must be at least equal to the current post-closure cost estimate, except as provided in subsection (f), divided by the number of years in the pay-in period.
 - B) Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next Payment} = \frac{(\text{CE} - \text{CV}) - \text{CE}}{\text{Y}}$$

Where:

- CE = the current closure cost estimate
- CV = the current value of the trust fund

Y = the number of years remaining in the pay-in period

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- 4) The owner or operator may accelerate payments into the trust fund or may deposit the full amount of the current post-closure cost estimate at the time the fund is established. However, the owner or operator must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in subsection (a)(3).
 - 5) If the owner or operator establishes a post-closure trust fund after having used one or more alternate mechanisms specified in this Section, the owner or operator's first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made as specified in subsection (a)(3).
 - 6) After the pay-in period is completed, whenever the current post-closure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current post-closure cost estimate, or obtain other financial assurance as specified in this Section to cover the difference.
 - 7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current post-closure cost estimate, the owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate.
 - 8) If an owner or operator substitutes other financial assurance as specified in this Section for all or part of the trust fund, owner or operator may submit a written request to the Agency for release of the amount in excess of the current post-closure cost estimate covered by the trust fund.
 - 9) Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsection (a)(7) or (a)(8), the Agency must instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing.
 - 10) During the period of post-closure care, the Agency must approve a release of funds if the owner or operator demonstrates to the Agency that the value of the trust fund exceeds the remaining cost of post-closure care.
 - 11) An owner or operator or any other person authorized to perform post-

1703 closure care may request reimbursement for post-closure care expenditures
 1704 by submitting itemized bills to the Agency. Within 60 days after receiving
 1705 bills for post-closure activities, the Agency must instruct the trustee to
 1706 make reimbursement in those amounts as the Agency specifies in writing
 1707 if the Agency determines that the post-closure care expenditures are in
 1708 accordance with the approved post-closure plan or otherwise justified. If
 1709 the Agency does not instruct the trustee to make such reimbursements, the
 1710 Agency must provide the owner or operator with a detailed written
 1711 statement of reasons.
 1712

- 1713 12) The Agency must agree to termination of a trust when either of the
 1714 following occurs:
 1715
 1716 A) An owner or operator substitutes alternate financial assurance, as
 1717 specified in this Section; or
 1718
 1719 B) The Agency releases the owner or operator from the requirements
 1720 of this Section in accordance with subsection (h).
 1721

1722 b) Surety Bond Guaranteeing Payment into a Post-Closure Trust Fund
 1723

- 1724 1) An owner or operator may satisfy the requirements of this Section by
 1725 obtaining a surety bond that conforms to the requirements of this
 1726 subsection (b) and submitting the bond to the Agency. The surety
 1727 company issuing the bond must, at a minimum, be among those listed as
 1728 acceptable sureties on federal bonds in Circular 570 of the U.S.
 1729 Department of the Treasury.
 1730

1731 BOARD NOTE: The U.S. Department of the Treasury updates Circular
 1732 570, "Companies Holding Certificates of Authority as Acceptable Sureties
 1733 on Federal Bonds and as Acceptable Reinsuring Companies", on an annual
 1734 basis pursuant to 31 CFR 223.16. Circular 570 is available on the Internet
 1735 from the following website: [https://fiscal.treasury.gov/about-us/doing-](https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570)
 1736 [business-with-fiscal-service/surety-bonds/circular-570](https://fiscal.treasury.gov/about-us/doing-business-with-fiscal-service/surety-bonds/circular-570)
 1737 <http://www.fms.treas.gov/c570/>.
 1738

- 1739 2) The wording of the surety bond must be as specified in 35 Ill. Adm. Code
 1740 724.251.
 1741
 1742 3) The owner or operator that uses a surety bond to satisfy the requirements
 1743 of this Section must also establish a standby trust fund. Under the terms
 1744 of the bond, all payments made thereunder will be deposited by the surety
 1745 directly into the standby trust fund in accordance with instructions from
 1746 the Agency. This standby trust fund must meet the requirements specified

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in subsection (a), except as follows:

- A) An original, signed duplicate of the trust agreement must be submitted to the Agency with the surety bond; and
- B) Until the standby trust fund is funded pursuant to the requirements of this Section, the following are not required by these regulations:
 - i) Payments into the trust fund, as specified in subsection (a);
 - ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.251) to show current post-closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
- 4) The bond must guarantee that the owner or operator will perform the following acts:
 - A) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or
 - B) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an order to begin closure is issued by the Board or a court of competent jurisdiction; or
 - C) Provide alternate financial assurance, as specified in this Section, and obtain the Agency's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety.
- 5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
- 6) The penal sum of the bond must be in an amount at least equal to the current post-closure cost estimate, except as provided in subsection (f).
- 7) Whenever the current post-closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at

- 1791 least equal to the current post-closure cost estimate and submit evidence of
1792 such increase to the Agency or obtain other financial assurance as
1793 specified in this Section to cover the increase. Whenever the current post-
1794 closure cost estimate decreases, the penal sum may be reduced to the
1795 amount of the current post-closure cost estimate following written
1796 approval by the Agency.
1797
- 1798 8) Under the terms of the bond, the surety may cancel the bond by sending
1799 notice of cancellation by certified mail to the owner or operator and to the
1800 Agency. Cancellation may not occur, however, during the 120 days
1801 beginning on the date of receipt of the notice of cancellation by both the
1802 owner or operator and the Agency, as evidenced by the return receipts.
1803
- 1804 9) The owner or operator may cancel the bond if the Agency has given prior
1805 written consent based on its receipt of evidence of alternate financial
1806 assurance as specified in this Section.
1807
- 1808 c) Post-Closure Letter of Credit
1809
- 1810 1) An owner or operator may satisfy the requirements of this Section by
1811 obtaining an irrevocable standby letter of credit that conforms to the
1812 requirements of this subsection (c) and submitting the letter to the Agency.
1813 The issuing institution must be an entity that has the authority to issue
1814 letters of credit and whose letter-of-credit operations are regulated and
1815 examined by a federal or State agency.
1816
- 1817 2) The wording of the letter of credit must be as specified in 35 Ill. Adm.
1818 Code 724.251.
1819
- 1820 3) An owner or operator that uses a letter of credit to satisfy the requirements
1821 of this Section must also establish a standby trust fund. Under the terms
1822 of the letter of credit, all amounts paid pursuant to a draft by the Agency
1823 must be deposited by the issuing institution directly into the standby trust
1824 fund in accordance with instructions from the Agency. This standby trust
1825 fund must meet the requirements of the trust fund specified in subsection
1826 (a), except as follows:
1827
- 1828 A) An original, signed duplicate of the trust agreement must be
1829 submitted to the Agency with the letter of credit; and
1830
- 1831 B) Unless the standby trust fund is funded pursuant to the
1832 requirements of this Section, the following are not required by
1833 these regulations:
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- i) Payments into the trust fund, as specified in subsection (a);
 - ii) Updating of Schedule A of the trust agreement (as specified in 35 Ill. Adm. Code 724.151) to show current post-closure cost estimates;
 - iii) Annual valuations, as required by the trust agreement; and
 - iv) Notices of nonpayment, as required by the trust agreement.
- 1845 4) The letter of credit must be accompanied by a letter from the owner or
1846 operator referring to the letter of credit by number, issuing institution, and
1847 date and providing the following information: the USEPA identification
1848 number, name, and address of the facility, and the amount of funds
1849 assured for post-closure care of the facility by the letter of credit.
1850
- 1851 5) The letter of credit must be irrevocable and issued for a period of at least
1852 one year. The letter of credit must provide that the expiration date will be
1853 automatically extended for a period of at least one year unless, at least 120
1854 days before the current expiration date, the issuing institution notifies both
1855 the owner or operator and the Agency by certified mail of a decision not to
1856 extend the expiration date. Under the terms of the letter of credit, the 120
1857 days will begin on the date when both the owner or operator and the
1858 Agency have received the notice, as evidenced by the return receipts.
1859
- 1860 6) The letter of credit must be issued in an amount at least equal to the
1861 current post-closure cost estimate, except as provided in subsection (f).
1862
- 1863 7) Whenever the current post-closure cost estimate increases to an amount
1864 greater than the amount of the credit during the operating life of the
1865 facility, the owner or operator, within 60 days after the increase, must
1866 either cause the amount of the credit to be increased so that it at least
1867 equals the current post-closure cost estimate and submit evidence of such
1868 increase to the Agency, or obtain other financial assurance, as specified in
1869 this Section, to cover the increase. Whenever the current cost estimate
1870 decreases during the operating life of the facility, the amount of the credit
1871 may be reduced to the amount of the current post-closure cost estimate
1872 following written approval by the Agency.
1873
- 1874 8) During the period of post-closure care, the Agency must approve a
1875 decrease in the amount of the letter of credit if the owner or operator
1876 demonstrates to the Agency that the amount exceeds the remaining cost of
1877 post-closure care.
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- 9) Following a final judicial determination or Board order finding that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other interim status requirements, the Agency may draw on the letter of credit.
 - 10) If the owner or operator does not establish alternate financial assurance, as specified in this Section, and obtain written approval of such alternate assurance from the Agency within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the Agency must draw on the letter of credit. The Agency may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days after any such extension the Agency must draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance, as specified in this Section, and obtain written approval of such assurance from the Agency.
 - 11) The Agency must return the letter of credit to the issuing institution for termination when either of the following occurs:
 - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h).
- d) Post-Closure Insurance
- 1) An owner or operator may satisfy the requirements of this Section by obtaining post-closure insurance that conforms to the requirements of this subsection and submitting a certificate of such insurance to the Agency. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.
 - 2) The wording of the certificate of insurance must be as specified in 35 Ill. Adm. Code 724.251.
 - 3) The post-closure insurance policy must be issued for a face amount at least equal to the current post-closure estimate, except as provided in subsection (f). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

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- 4) The post-closure insurance policy must guarantee that funds will be available to provide post-closure care of facility whenever the post-closure period begins. The policy must also guarantee that, once post-closure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Agency, to such party or parties as the Agency specifies.
 - 5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Agency. Within 60 days after receiving bills for post-closure activities, the Agency must instruct the insurer to make reimbursement in such amounts as the Agency specifies in writing, if the Agency determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Agency does not instruct the insurer to make such reimbursements, the Agency must provide the owner or operator with a detailed written statement of reasons.
 - 6) The owner or operator must maintain the policy in full force and effect until the Agency consents to termination of the policy by the owner or operator, as specified in subsection (d)(11). Failure to pay the premium, without substitution of alternate financial assurance, as specified in this Section, will constitute a significant violation of these regulations, warranting such remedy as the Board may impose pursuant to the Environmental Protection Act. Such violation will be deemed to begin upon receipt by the Agency of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.
 - 7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
 - 8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Agency. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Agency and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to

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renew may not occur, and the policy will remain in full force and effect in the event that, on or before the date of expiration, one of the following occurs:

- A) The Agency deems the facility abandoned;
 - B) Interim status is terminated or revoked;
 - C) Closure is ordered by the Board or a court of competent jurisdiction;
 - D) The owner or operator is named as debtor in a voluntary or involuntary proceeding under 11 USC (Bankruptcy); or
 - E) The premium due is paid.
- 9) Whenever the current post-closure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current post-closure cost estimate and submit evidence of such increase to the Agency, or obtain other financial assurance, as specified in this Section, to cover the increase. Whenever the current post-closure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current post-closure cost estimate following written approval by the Agency.
- 10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer must thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to 85 percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for 26-week Treasury securities.
- 11) The Agency must give written consent to the owner or operator that the owner or operator may terminate the insurance policy when either of the following occurs:
- A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h).

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- e) Financial Test and Corporate Guarantee for Post-Closure Care
 - 1) An owner or operator may satisfy the requirements of this Section by demonstrating that the owner or operator passes a financial test, as specified in this subsection (e). To pass this test the owner or operator must meet the criteria of either subsection (e)(1)(A) or (e)(1)(B):
 - A) The owner or operator must have each of the following:
 - i) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5;
 - ii) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the plugging and abandonment cost estimates.
 - B) The owner or operator must have each of the following:
 - i) A current rating for its most recent bond issuance of AAA, AA, A, or BBB, as issued by Standard and Poor's, or Aaa, Aa, A, or Baa, as issued by Moody's;
 - ii) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates;
 - iii) Tangible net worth of at least \$10 million; and
 - iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

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- 2) The phrase "current closure and post-closure cost estimates", as used in subsection (e)(1), refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 724.251). The phrases "current plugging and abandonment cost estimates", as used in subsection (e)(1), refers to the cost estimates required to be shown in subsections 1 through 4 of the letter from the owner's or operator's chief financial officer (see 35 Ill. Adm. Code 704.240).
 - 3) To demonstrate that it meets this test, the owner or operator must submit each of the following items to the Agency:
 - A) A letter signed by the owner's or operator's chief financial officer and worded as specified in 35 Ill. Adm. Code 724.251;
 - B) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and
 - C) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating both of the following:
 - i) That the accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and
 - ii) In connection with that procedure, that no matters came to the accountant's attention that caused the accountant to believe that the specified data should be adjusted.
 - 4) This subsection (e)(4) corresponds with 40 CFR 265.143(e)(4), a federal provision relating to an extension of the time to file the proofs of financial assurance required by this subsection (e) granted by USEPA. This statement maintains structural consistency with the corresponding federal regulations.
 - 5) After the initial submission of items specified in subsection (e)(3), the owner or operator must send updated information to the Agency within 90 days after the close of each succeeding fiscal year. This information must consist of all three items specified in subsection (e)(3).

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- 6) If the owner or operator no longer meets the requirements of subsection (e)(1), the owner or operator must send notice to the Agency of intent to establish alternate financial assurance, as specified in this Section. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide the alternate financial assurance within 120 days after the end of such fiscal year.
 - 7) The Agency may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (e)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (e)(3). If the Agency finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (e)(1), the owner or operator must provide alternate financial assurance, as specified in this Section, within 30 days after notification of such a finding.
 - 8) The Agency may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in the accountant's report on examination of the owner's or operator's financial statements (see subsection (e)(3)(B)). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The Agency must evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance, as specified in this Section, within 30 days after notification of the disallowance.
 - 9) During the period of post-closure care, the Agency must approve a decrease in the current post-closure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the Agency that the amount of the cost estimate exceeds the remaining cost of post-closure care.
 - 10) The owner or operator is no longer required to submit the items specified in subsection (e)(3) when either of the following occurs:
 - A) An owner or operator substitutes alternate financial assurance, as specified in this Section; or
 - B) The Agency releases the owner or operator from the requirements of this Section in accordance with subsection (h).
 - 11) An owner or operator may meet the requirements of this Section by

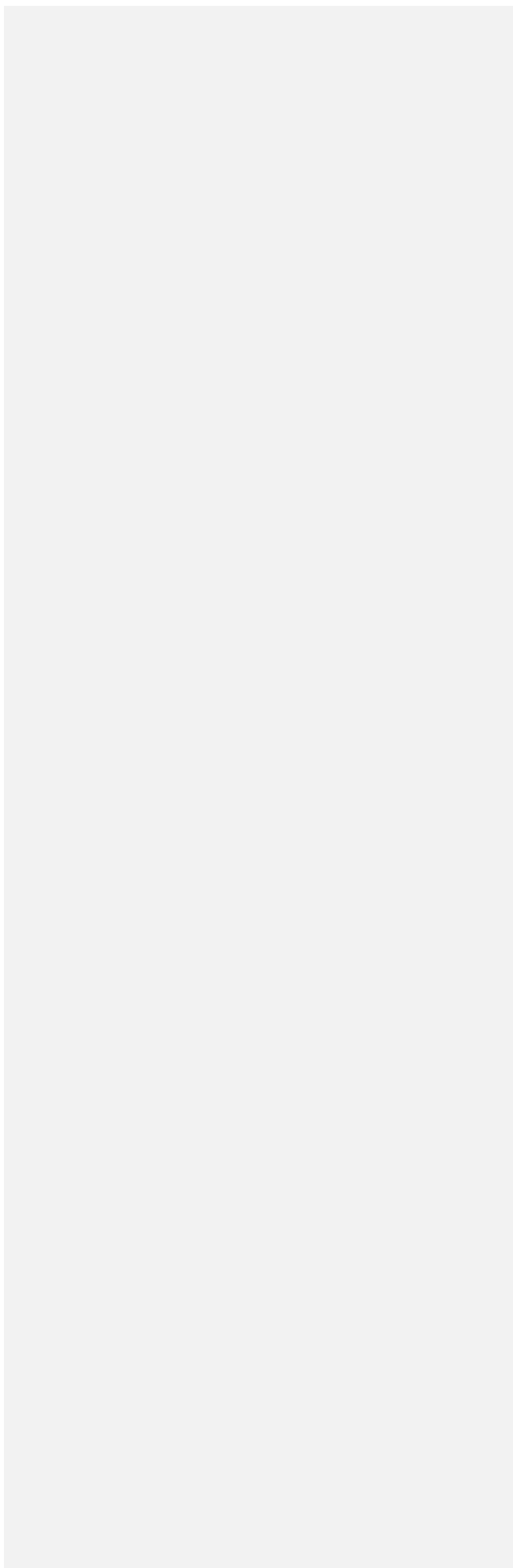
2143 obtaining a written guarantee, hereafter referred to as "corporate
 2144 guarantee". The guarantor must be the direct or higher-tier parent
 2145 corporation of the owner or operator, a firm whose parent corporation is
 2146 also the parent corporation of the owner or operator, or a firm with a
 2147 "substantial business relationship" with the owner or operator. The
 2148 guarantor must meet the requirements for owners or operators in
 2149 subsections (e)(1) through (e)(9), and must comply with the terms of the
 2150 corporate guarantee. The wording of the corporate guarantee must be
 2151 identical to the wording specified in 35 Ill. Adm. Code 724.251. The
 2152 corporate guarantee must accompany the items sent to the Agency as
 2153 specified in subsection (e)(3). One of these items must be the letter from
 2154 the guarantor's chief financial officer. If the guarantor's parent corporation
 2155 is also the parent corporation of the owner or operator, the letter must
 2156 describe the value received in consideration of the guarantee. If the
 2157 guarantor is a firm with a "substantial business relationship" with the
 2158 owner or operator, this letter must describe this substantial business
 2159 relationship" and the value received in consideration of the guarantee.
 2160 The terms of the corporate guarantee must provide as follows:
 2161
 2162 A) That, if the owner or operator fails to perform post-closure care of
 2163 a facility covered by the corporate guarantee in accordance with
 2164 the post-closure plan and other interim status requirements
 2165 whenever required to do so, the guarantor will do so or establish a
 2166 trust fund as specified in subsection (a), in the name of the owner
 2167 or operator.
 2168
 2169 B) That the corporate guarantee will remain in force unless the
 2170 guarantor sends notice of cancellation by certified mail to the
 2171 owner or operator and to the Agency. Cancellation may not occur,
 2172 however, during the 120 days beginning on the date of receipt of
 2173 the notice of cancellation by both the owner or operator and the
 2174 Agency, as evidenced by the return receipts.
 2175
 2176 C) That, if the owner or operator fails to provide alternate financial
 2177 assurance, as specified in this Section, and obtain the written
 2178 approval of such alternate assurance from the Agency within 90
 2179 days after receipt by both the owner or operator and the Agency of
 2180 a notice of cancellation of the corporate guarantee from the
 2181 guarantor, the guarantor will provide such alternate financial
 2182 assurance in the name of the owner or operator.
 2183
 2184 f) Use of Multiple Financial Mechanisms. An owner or operator may satisfy the
 2185 requirements of this Section by establishing more than one financial mechanism
 2186 per facility. These mechanisms are limited to trust funds, surety bonds, letters of

- 2187 credit, and insurance. The mechanisms must be as specified in subsections (a)
 2188 through (d), respectively, except that it is the combination of mechanisms, rather
 2189 than the single mechanism, that must provide financial assurance for an amount at
 2190 least equal to the current post-closure cost estimate. If an owner or operator uses
 2191 a trust fund in combination with a surety bond or a letter of credit, it may use the
 2192 trust fund as the standby trust fund for the other mechanisms. A single standby
 2193 trust fund may be established for two or more mechanisms. The Agency may use
 2194 any or all of the mechanisms to provide for post-closure care of the facility.
 2195
- 2196 g) Use of a Financial Mechanism for Multiple Facilities. An owner or operator may
 2197 use a financial assurance mechanism specified in this Section to meet the
 2198 requirements of this Section for more than one facility. Evidence of financial
 2199 assurance submitted to the Agency must include a list showing, for each facility,
 2200 the USEPA Identification Number, name, address, and the amount of funds for
 2201 post-closure care assured by the mechanism. The amount of funds available
 2202 through the mechanism must be no less than the sum of funds that would be
 2203 available if a separate mechanism had been established and maintained for each
 2204 facility. The amount of funds available to the Agency must be sufficient to
 2205 provide post-closure care for all of the owner or operator's facilities. In directing
 2206 funds available through the mechanism for post-closure care of any of the
 2207 facilities covered by the mechanism, the Agency may direct only the amount of
 2208 funds designated for that facility, unless the owner or operator agrees to the use of
 2209 additional funds available under the mechanism.
 2210
- 2211 h) Release of the Owner or Operator from the Requirements of This Section. Within
 2212 60 days after receiving certifications from the owner or operator and a qualified
 2213 Professional Engineer that the post-closure care period has been completed in
 2214 accordance with the approved post-closure plan, the Agency must notify the
 2215 owner or operator in writing that the owner or operator is no longer required by
 2216 this Section to maintain financial assurance for post-closure care of that unit,
 2217 unless the Agency determines that post-closure care has not been in accordance
 2218 with the approved plan. The Agency must provide the owner or operator a
 2219 detailed written statement of any such determination that post-closure care has not
 2220 been in accordance with the approved post-closure plan.
 2221
- 2222 i) Appeal. The following Agency actions are deemed to be permit modifications or
 2223 refusals to modify for purposes of appeal to the Board (35 Ill. Adm. Code
 2224 702.184(e)(3)):
 2225
- 2226 1) An increase in, or a refusal to decrease the amount of, a bond, letter of
 2227 credit, or insurance; or
 - 2228 2) Requiring alternate assurance upon a finding that an owner or operator or
 2229 parent corporation no longer meets a financial test.
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(Source: Amended at 50 Ill. Reg. _____, effective _____)



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

5
6 PART 726
7 STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTE AND
8 SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

9
10 SUBPART A: GENERAL

11 Section
12 726.102 Electronic Reporting

13
14
15 SUBPART C: RECYCLABLE MATERIALS USED IN A
16 MANNER CONSTITUTING DISPOSAL

17
18 Section
19 726.120 Applicability
20 726.121 Standards Applicable to Generators and Transporters of Materials Used in a
21 Manner that Constitutes Disposal
22 726.122 Standards Applicable to Storers, Who Are Not the Ultimate Users, of Materials
23 that Are To Be Used in a manner that Constitutes Disposal
24 726.123 Standards Applicable to Users of Materials that Are Used in a Manner that
25 Constitutes Disposal

26
27 SUBPART D: HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

28
29 Section
30 726.130 Applicability (Repealed)
31 726.131 Prohibitions (Repealed)
32 726.132 Standards applicable to generators of hazardous waste fuel (Repealed)
33 726.133 Standards applicable to transporters of hazardous waste fuel (Repealed)
34 726.134 Standards applicable to marketers of hazardous waste fuel (Repealed)
35 726.135 Standards applicable to burners of hazardous waste fuel (Repealed)
36 726.136 Conditional exemption for spent materials and by-products exhibiting a
37 characteristic of hazardous waste (Repealed)

38
39 SUBPART E: USED OIL BURNED FOR ENERGY RECOVERY

40
41 Section
42 726.140 Applicability (Repealed)
43 726.141 Prohibitions (Repealed)
44 726.142 Standards applicable to generators of used oil burned for energy recovery

45		(Repealed)
46	726.143	Standards applicable to marketers of used oil burned for energy recovery
47		(Repealed)
48	726.144	Standards applicable to burners of used oil burned for energy recovery (Repealed)
49		
50		SUBPART F: RECYCLABLE MATERIALS UTILIZED FOR
51		PRECIOUS METAL RECOVERY
52		
53	Section	
54	726.170	Applicability and Requirements
55		
56		SUBPART G: SPENT LEAD-ACID BATTERIES BEING RECLAIMED
57		
58	Section	
59	726.180	Applicability and Requirements
60		
61		SUBPART H: HAZARDOUS WASTE BURNED IN BOILERS
62		AND INDUSTRIAL FURNACES
63		
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66	726.201	Management Prior to Burning
67	726.202	Permit Standards for Burners
68	726.203	Interim Status Standards for Burners
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73	726.208	Small Quantity On-Site Burner Exemption
74	726.209	Low Risk Waste Exemption
75	726.210	Waiver of DRE Trial Burn for Boilers
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85	726.302	Definition of Solid Waste
86	726.303	Standards Applicable to the Transportation of Solid Waste Military Munitions
87	726.304	Standards Applicable to Emergency Responses
88	726.305	Standards Applicable to the Storage of Solid Waste Military Munitions

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89	726.306	Standards Applicable to the Treatment and Disposal of Waste Military Munitions
90		
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92		STORAGE, TREATMENT, TRANSPORTATION AND DISPOSAL
93		
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96	726.320	Storage and Treatment Conditional Exemption
97	726.325	Wastes Eligible for a Storage and Treatment Conditional Exemption for Low-
98		Level Mixed Waste
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100		Exemption
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102	726.340	Loss of a Storage and Treatment Conditional Exemption and Required Action
103	726.345	Reclaiming a Lost Storage and Treatment Conditional Exemption
104	726.350	Recordkeeping for a Storage and Treatment Conditional Exemption
105	726.355	Waste No Longer Eligible for a Storage and Treatment Conditional Exemption
106	726.360	Applicability of Closure Requirements to Storage Units
107	726.405	Transportation and Disposal Conditional Exemption
108	726.410	Wastes Eligible for a Transportation and Disposal Conditional Exemption
109	726.415	Conditions to Qualify for and Maintain a Transportation and Disposal Conditional
110		Exemption
111	726.420	Treatment Standards for Eligible Waste
112	726.425	Applicability of the Manifest and Transportation Condition
113	726.430	Effectiveness of a Transportation and Disposal Exemption
114	726.435	Disposal of Exempted Waste
115	726.440	Containers Used for Disposal of Exempted Waste
116	726.445	Notification
117	726.450	Recordkeeping for a Transportation and Disposal Conditional Exemption
118	726.455	Loss of a Transportation and Disposal Conditional Exemption and Required
119		Action
120	726.460	Reclaiming a Lost Transportation and Disposal Conditional Exemption
121		
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126	726.601	Applicability
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128	726.603	Standards for Potentially Creditable Hazardous Waste Pharmaceuticals
129	726.604	Very Small Quantity Generators
130	726.605	Prohibition Against Sewering
131	726.606	Conditional Exemptions for Controlled Substances and Household Hazardous
132		Waste Pharmaceuticals

- 133 726.607 Residues in Empty Containers
- 134 726.608 Shipping from a Healthcare Facility or Reverse Distributor
- 135 726.609 Shipping to a Reverse Distributor
- 136 726.610 Standards for Reverse Distributors

137 SUBPART Q: IGNITABLE SPENT REFRIGERANTS RECYCLED FOR REUSE

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- 159 726.APPENDIX M Mercury-Bearing Wastes that May Be Processed in Exempt Mercury Recovery Units
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- 161 726.TABLE A Exempt Quantities for Small Quantity Burner Exemption
- 162

Commented [SKA1]: delete

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

165

166 SOURCE: Adopted in R85-22 at 10 Ill. Reg. 1162, effective January 2, 1986; amended in R86-1
 167 at 10 Ill. Reg. 14156, effective August 12, 1986; amended in R87-26 at 12 Ill. Reg. 2900,
 168 effective January 15, 1988; amended in R89-1 at 13 Ill. Reg. 18606, effective November 13,
 169 1989; amended in R90-2 at 14 Ill. Reg. 14533, effective August 22, 1990; amended in R90-11 at
 170 15 Ill. Reg. 9727, effective June 17, 1991; amended in R91-13 at 16 Ill. Reg. 9858, effective
 171 June 9, 1992; amended in R92-10 at 17 Ill. Reg. 5865, effective March 26, 1993; amended in
 172 R93-4 at 17 Ill. Reg. 20904, effective November 22, 1993; amended in R94-7 at 18 Ill. Reg.
 173 12500, effective July 29, 1994; amended in R95-4/R95-6 at 19 Ill. Reg. 10006, effective June 27,
 174 1995; amended in R95-20 at 20 Ill. Reg. 11263, effective August 1, 1996; amended in R96-
 175 10/R97-3/R97-5 at 22 Ill. Reg. 754, effective December 16, 1997; amended in R97-21/R98-
 176 3/R98-5 at 22 Ill. Reg. 18042, effective September 28, 1998; amended in R99-15 at 23 Ill. Reg.

177 9482, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9853, effective June 20, 2000;
178 amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6667, effective April 22, 2002; amended in
179 R03-7 at 27 Ill. Reg. 4200, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg.
180 12916, effective July 17, 2003; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3700, effective
181 February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1096, effective December
182 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12741, effective July 14, 2008; amended in
183 R11-2/R11-16 at 35 Ill. Reg. 18117, effective October 14, 2011; amended in R13-5 at 37 Ill.
184 Reg. 3249, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17888, effective October
185 24, 2013; amended in R16-7 at 40 Ill. Reg. 11955, effective August 9, 2016; amended in R17-
186 14/R17-15/R18-12/R18-31 at 42 Ill. Reg. 23023, effective November 19, 2018; amended in R20-
187 8/R20-16 at 44 Ill. Reg. 15427, effective September 3, 2020; amended in R21-13, R22-13, R24-4
188 at 48 Ill. Reg. 9930, effective June 20, 2024; amended in R24-12 at 48 Ill. Reg. 17108, effective
189 November 7, 2024; amended in R26-4 at 50 Ill. Reg. _____, effective _____.

190 SUBPART Q: IGNITABLE SPENT REFRIGERANTS RECYCLED FOR REUSE

191 Section 726.700 Purpose and Applicability

- 192
- 193
- 194
- 195 a) The purpose of this subpart is to reduce emissions of ignitable spent refrigerants
196 to the lowest achievable level by maximizing the recovery and safe recycling for
197 reuse of such refrigerants during the service, repair, and disposal of appliances.
- 198
- 199 b) The requirements of this subpart operate in lieu of Sections 703 and 720 through
200 728 and apply to lower flammability spent refrigerants, as defined in Section
201 726.701, where the refrigerant exhibits the hazardous waste characteristic of
202 ignitability per Section 721.121 and is being recycled for reuse in the United
203 States.
- 204
- 205 c) These requirements do not apply to other ignitable spent refrigerants. Ignitable
206 spent refrigerants not subject to this subpart are subject to all applicable
207 requirements of Sections 703 and 720 through 728 when recovered (i.e., removed
208 from an appliance and stored in an external container) and/or disposed of.

209
210 (Source: Added at 50 Ill. Reg. _____, effective _____)

211

212 Section 726.701 Definitions for this Subpart

213

214 For the purposes of this Subpart, the following terms have the meanings given below:

- 215
- 216 a) "Refrigerant" means, for purposes of this Subpart, any substance, including
217 blends and mixtures, consisting in part or whole of a class I or class II ozone-
218 depleting substance or substitute that is used for heat transfer purposes and
219 provides a cooling effect.

Commented [SKA2]: 35 Ill. Adm. Code 703 and 720 through 728? Please review all cross reference styles in this rulemaking.

Commented [SKA3]: Please review all cross reference styles in this rulemaking.

Commented [SKA4]: Please review all cross reference styles in this rulemaking.

Commented [SKA5]: Remove italics.

Commented [SKA6]: remove italics from the defined terms.

BOARD NOTE: Refrigerant has the same meaning as defined in 40 CFR 82.152.

- b) "Ignitable spent refrigerant" is a used refrigerant that cannot be reused without first being processed, and that exhibits the hazardous characteristic of ignitability per Section 721.121. Used refrigerants that can be legitimately reused without processing are not spent refrigerant.
- c) "Recycle for reuse" when referring to an ignitable spent refrigerant, means to process the refrigerant to remove contamination and prepare it to be used again. "Recycle for reuse" does not include recycling that involves burning for energy recovery or use in a manner constituting disposal as defined in Section 721.102(c) or sham recycling as defined in Section 721.102(g).
- d) "Lower flammability spent refrigerant" means a spent refrigerant that is not considered highly flammable. Highly flammable refrigerants include but are not limited to the following chemicals: butane, isobutane, methane, propane, and/or propylene.

(Source: Added at 50 Ill. Reg. _____, effective _____)

Section 726.702 Standards for Ignitable Spent Refrigerant Recycled for Resue under this Subpart.

- a) Persons who recover (i.e., remove from an appliance and store in an external container) and/or recycle ignitable spent refrigerants for reuse either for further use in equipment of the same owner, or in compliance with motor vehicle air conditioner (MVAC) standards in 40 CFR part 82, subpart B, or who send recovered refrigerant off-site to be recycled for reuse must:
 - 1) Recover or recycle for reuse the ignitable spent refrigerant using equipment that is certified for that type of refrigerant and appliance under 40 CFR 82.36 or 40 CFR 82.15; and
 - 2) Not speculatively accumulate the ignitable spent refrigerant per Section 721.101(c).
- b) Persons who receive ignitable spent refrigerants from off-site, and are not a transfer facility that stores the refrigerants for less than ten (10) days before sending the refrigerant to another site to be recycled for reuse, must:
 - 1) If recovering the refrigerant, recover the ignitable spent refrigerant using equipment that is certified for that type of refrigerant and appliance under 40 CFR 82.36;

Commented [SKA7]: Please review all cross reference styles in this rulemaking.

Commented [SKA8]: Please review all cross reference styles in this rulemaking.

Commented [SKA9]: Please review all cross reference styles in this rulemaking.

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Commented [SKA11]: remove italics

Commented [SKA12]: delete

Commented [SKA13]: 35 Ill. Adm. Code 721.101(c)?

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Commented [SKA15]: 10

265 2) Meet the applicable emergency preparedness and response requirements of
266 Section 721; and

Commented [SKA16]: 35 Ill. Adm. Code 721?

267
268 3) Not speculatively accumulate the ignitable spent refrigerant per Section
269 721.101(c).

Commented [SKA17]: 35 Ill. Adm. Code 721.101(c)?

270
271 c) Persons receiving ignitable spent refrigerant from off-site to be recycled for reuse
272 under this subpart must:

Commented [SKA18]: cap

273
274 1) Maintain certification by USEPA under 40 CFR 82.164;

275
276 2) Meet the applicable emergency preparedness and response requirements of
277 Section 721, subpart M; and

Commented [SKA19]: see above

Commented [SKA20]: cap

278
279 3) Starting with the calendar year beginning January 1, 2029, not
280 speculatively accumulate the ignitable spent refrigerant per Section
281 721.101(c).

Commented [SKA21]: see above

282
283 (Source: Added at 50 Ill. Reg. _____, effective _____)